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Post-conflict time: defusing ticking time bombs for a safe return of displaced populations

Report[1]
Committee on Migration, Refugees and Displaced Persons
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Summary

The growing number of people forcibly displaced due to conflicts and their consequences, in particular because of the use of explosive weapons in populated areas, is worrying. Although treaties and international humanitarian law prohibit assaults against civilian populations, especially in populated areas, the real picture is that in many conflicts – not least today in Ukraine – civilians are heavily affected by explosive weapons. These weapons have immediate and long-term effects: deaths, injuries, and trauma. Their use leads to large-scale forced displacements of populations, with aggravated consequences for women and children. Explosive weapons deeply affect both rural and urban areas, infrastructures, basic needs and essential services, and have a detrimental effect on the environment for decades.

To end this unacceptable situation, the report calls upon member States to consider the best legal and practical solutions to tackle the use of explosive weapons, especially in urban areas, and to facilitate the removal of landmines and unexploded ordnance. The report outlines best-practice approaches to ensuring a voluntary, safe, dignified and sustainable return of forcibly displaced populations, by involving the populations in question in such policies and by providing them with essential services. It also invites member States to ban the use of explosive weapons, act resolutely to clear territories from landmines and unexploded ordnance, and thereby contribute to re-building peace in Europe.

1. Reference to the committee: Doc. 15698, Reference 4720 of 24 April 2023.

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A. Draft resolution[2]

1. The Parliamentary Assembly is appalled by the Russian Federation's ongoing war of aggression against Ukraine, the latest in a series of dreadful wars which have scarred Europe since the 20th century. This tragedy reminds us the fragility of peace on our continent and the importance of never ceasing in our efforts to protect and consolidate our democratic societies.

2. All conflicts have immediate devastating consequences on civilians and on territories, not least through the widespread use of explosive weapons, especially cluster munitions. They also bring the long-term consequences of the explosive remnants of war, particularly landmines and unexploded ordnance. The use of explosive weapons in populated areas often results in the displacement of people within and across borders, and later impedes their voluntary, safe, dignified and sustainable return.

3. Explosive ordnance has long-term effects on civilians, including physical, psychosocial and mental-health damage. Civilians are too often the collateral victims of conflicts and, post conflict, of landmines and explosive remnants of war. Among them are migrants on their migration routes, with women and children being particularly exposed and paying a heavy price.

4. The Assembly recalls the "Memorandum on the human rights consequences of the war in Ukraine" issued by the former Commissioner for Human Rights, Dunja Mijatović, in July 2022, in which she regretted that, despite some areas having been marked off by warning signage, injuries of civilians through explosive remnants of war were said to occur on a daily basis.

5. Beyond the human toll, the use of explosive weapons has devastating effects on civilian infrastructure and services. Their use destroys infrastructure, such as roads, schools, healthcare facilities, housing and other civilian objects and has devastating effects on the functioning of essential services, such as drinking water, sanitation, food, gas and electricity supply systems.

6. Moreover, the use of explosive weapons has a catastrophic impact on agriculture and the environment as a whole. The components of explosive weapons and their remnants contaminate soils, subsoils and water sources. They spread beyond populated areas, poisoning flora and fauna, and have a significant impact on entire ecosystems, which may take years, if not decades, to remedy.

7. Considering these multiple and cumulative factors, it is clear that landmines and unexploded ordnance have both immediate and long-term effects on the displacement of populations, raising also the crucial issue of a voluntary, safe, dignified and sustainable return to homelands.

8. The Assembly welcomes the treaties and customary international humanitarian law dealing with disarmament and ban of arms and weapons, as well as those dealing with the repatriation of forcibly displaced populations. It also welcomes the domestic laws issued by member States aimed *inter alia* at clearing their territories of landmines and unexploded ordnance.

9. Welcoming the start of the border delimitation process between Armenia and Azerbaijan, based on the 1991 Alma-Ata Declaration, the Assembly recalls the absolute necessity to "negotiate a process of delimitation and demarcation of the border and examine the possibility of creating a demilitarised zone" as underlined in Resolution 2391 (2021) "Humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict".

10. The Assembly welcomes the establishment of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine, which has started receiving claims for damage, loss or injury caused since 24 February 2022.

11. The Assembly notes with satisfaction that victims of landmines and unexploded ordnance will thereby be able to submit claims to the Register, including claims related to violations of personal integrity (such as the death of an immediate family member or serious personal injury) and loss of property, income and livelihood, including claims related to the inability to use agricultural land contaminated by landmines and other explosives. The Assembly also appreciates that "demining and clearance of unexploded ordnance" is an approved category for the submission of claims for compensation by the State of Ukraine (including its regional and local authorities, State-owned or controlled entities) for expenses related to the removal of landmines and unexploded ordnance, as well as other related categories, such as environmental damage and depletion or damage of natural resources.

2. Draft resolution adopted unanimously by the committee on 29 May 2024.

12. The Assembly hails the good practices put in place by several member States to remove landmines and unexploded ordnance, and the related policies aimed *inter alia* at informing populations on how to recognise and react to the presence of landmines and unexploded ordnance. These can serve as examples for other States grappling with the presence of such remnants of war.

13. The Assembly draws the attention of member States to the Council of Europe's expertise on issues of human rights of displaced populations and migrants, and particularly the reports, country visits and recommendations of the Commissioner for Human Rights and of the Special Representative of the Secretary General on Migration and Refugees.

14. Conscious of the existing barriers for ensuring a voluntary, safe, dignified and sustainable return of populations, the Assembly calls on member States to enact appropriate legislation and develop clear guidelines aimed at ensuring that both rural and urban territories are cleared of explosive remnants of war, and more specifically to:

14.1. ratify and fully implement anti-personnel landmines and anti-cluster munitions conventions when not yet done so, *inter alia*:

14.1.1. the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects and all its additional protocols (I to V) (Geneva Convention, 1980);

14.1.2. the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction (Ottawa Convention, 1977);

14.1.3. the Convention on Cluster Munitions (Oslo Convention, 2008);

14.2. adopt and fully implement legislation prohibiting investments in the cluster munitions and anti-personnel landmines industries;

14.3. adopt and effectively implement legislation that prohibits under any circumstances the use, development, production, stockpiling or transfer of anti-personnel mines and of cluster munitions, and that obliges the safe and verified destruction of existing stocks of such ordnance.

15. In the same spirit, the Assembly calls on member States to develop or improve actions aimed at clearing territories of landmines and unexploded ordnance, and more specifically to:

15.1. develop further humanitarian demining operations, including international co-operation in demining coalitions, and further assist States in need, in particular, today, Ukraine;

15.2. develop awareness-raising campaigns aimed at informing civilians, including displaced persons prior to return, about the dangers of landmines and unexploded ordnance, with a particular focus on women, children and workers especially exposed to such ordnance;

15.3. develop guidelines on how civilians can recognise and react to explosive remnants of war, such as landmines and unexploded ordnance;

15.4. train the authorities and in particular law enforcement officials on how to react and protect civilians in the presence of explosive remnants of war.

16. The Assembly calls on member States to support civilians who are victims of landmines and unexploded ordnance, through the development – and provision to States in need such as Ukraine – of specialised emergency medical care, rehabilitation, psychological and psychosocial support.

17. The Assembly calls on member States to facilitate the voluntary, safe, dignified and sustainable return and reintegration of forcibly displaced persons by:

17.1. providing sufficient assistance aimed at covering the basic needs of these persons, such as housing, food, water, sanitation, and medical care;

17.2. reconstructing civilian infrastructure, including the rehabilitation of schools, as well as the provision of construction tools, household items and agricultural tools, seeds and fertilizer; and

17.3. boosting job markets through incentives, especially through the recognition of qualifications acquired abroad, and through educational and skills training programmes.

18. The Assembly underlines that ensuring the voluntary, safe, dignified and sustainable return of forcibly displaced populations requires the consultation and involvement of the displaced persons themselves on the conditions of their repatriation, for example by facilitating visits to the area prior to a definitive return in order to reassure them about the safety and material conditions in place.

19. To foster voluntary returns, the Assembly suggests the establishment of agreements involving – depending on each situation – governments of the countries of refuge and of origin, representatives from the displaced population, civil society, and international organisations such as the United Nations High Commissioner for Refugees under its international durable solutions mandate for refugees and other displaced persons.

20. In order to avoid such forced displacements in the first place, the Assembly calls on member States to ensure that their armed forces, and those of their allies, never deploy explosive weapons in populated areas, unless sufficient mitigation measures can be taken to reduce the consequences of such use on civilian lives and infrastructure in line with the recommendations of the International Committee of the Red Cross.

21. The Assembly further encourages member States to raise awareness through the endorsement, dissemination, and implementation of the 2022 Dublin Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas.

22. The Assembly observes with great concern the increasing use of unmanned aerial vehicles, also known as a combat drones, with too often indiscriminate targets and heavy civilian damages. The Assembly calls on member States to consider banning combat drones, especially in populated areas, in particular when loaded with munitions of wide area effects.

23. Recalling the Reykjavik Declaration adopted during the 4th Summit of Heads of State and Government of the Council of Europe held on 16-17 May 2023, the Assembly recalls the need to ensure human rights linked to the protection of the environment. The Assembly therefore calls on member States to mainstream a constant consideration of the environmental dimension in their mine and weapons policy development and in particular to:

23.1. join and fully implement the 1976 United Nations Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques;

23.2. develop environmentally-oriented demining policies covering land and sea territories and comprising both military and humanitarian demining operations, if need be in co-operation with international institutions or consortiums, such as United Nations agencies or private structures, and with a particular focus, today, on the recovery and rebuilding of Ukraine.

B. Explanatory memorandum by Mr Domagoj Hajduković, rapporteur

1. Introduction

1. While 21st century Europe is facing a large-scale war of aggression, our continent is still tackling the consequences of past conflicts and in particular the effects of what is commonly qualified as unexploded explosive ordnance.[3] The incommensurable number of explosive weapons disseminated in Europe during the successive wars of the past century has led to tragic long term humanitarian consequences, especially on civilians. As underlined by the United Nations (UN) Security Council in 2022, civilian populations account for nearly 90 % of war-time casualties.[4]

2. As raised in the motion for a resolution on this topic,[5] there is a direct correlation between the deployment of explosive weapons and the influx of refugees. The use of explosive weapons has tragic consequences on civilian populations, especially in populated areas. Beyond the issue of unacceptable civilian casualties, the use of explosive weapons leads to significant displacements of populations, within the given country and/or abroad. The conflict in Ukraine is once more demonstrating the tragic consequences of a conflict on civilians, including injuries, casualties and massive displacements. Indifferent belligerents all too often target military and civilian areas. The use of explosive weapons forces populations to flee their homes with tragic, detrimental and long-term effects on both populations and territories.

3. The United Nations High Commissioner for Refugees (UNHCR) Mid-Year Trends indicated that "at the end of June 2023, 110 million people worldwide were forcibly displaced from their homes due to persecution, conflict, violence, human rights violations and events seriously disturbing public order".[6] The UNHCR also underlined that more than half of these people in need of international protection came from just three countries, namely Syria (6.5 million), Afghanistan (6.1 million) and Ukraine (5.9 million).

4. The use of explosive weapons in populated areas leads to the destruction of civilian objects and impacts essential services, also facilitating forced displacements. In the long term, these factors provoke lasting impacts on civilians, with physical, mental-health and psychosocial effects. Conflicts also have other long-term consequences on territories, in particular the soil contamination by landmines and unexploded ordnance, leading to environmental damages for decades.

5. How to approach defusing the ticking time bomb of unexploded ordnance for a safe return of displaced populations during post-conflict times?

6. The subsequent question is: what can the Council of Europe, and more particularly its Parliamentary Assembly, recommend to member States for ensuring the voluntary, safe, dignified and sustainable return of forcibly displaced civilians? The Council of Europe cannot substitute the UN and UNHCR. The report and its recommendations consequently focus on the humanitarian dimension of the problem and the relating forced displacement of civilians.[7] After a first chapter on the relevant international legal framework and customary international humanitarian law at stake, the report analyses in a second chapter the humanitarian impacts and consequences of the use of explosive weapons in populated areas. A third chapter covers the best practices aimed at tackling the use of explosive weapons and managing the removal of unexploded ordnance. A fourth chapter develops the obstacles and solutions for ensuring a voluntary, safe, dignified and sustainable return of civilians. A fifth and conclusive chapter recommends actions to member States, in line with the Reykjavik Declaration adopted at the 4th Summit of Heads of State and Government of the Council of Europe held on 16-17 May 2023.

7. This report was prepared *inter alia* thanks to exchanges of views with experts. The Committee on Migration, Refugees and Displaced Persons heard on 21 September 2023 Ms Rachel Bolton-King, Associate Professor and Courses Manager of Forensic Science from Nottingham Trent University, United Kingdom, and Mr Christian De Cock, Visiting Professor of Law, Free University of Brussels and University of Ghent, Belgium. The committee also heard on 20 March 2024 Mr Dejan Rendulić, representative of the Croatian

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3. Also commonly called "unexploded ordnance", often found under the abbreviation "UXO"; hereafter in the report referred as "unexploded ordnance". Based on international texts or sources, the expression "remnants of war" can also be found in the report and is similar to "unexploded ordnance".
4. https://press.un.org/en/2022/sc14904.doc.htm.
5. Doc. 15698.
6. www.unhcr.org/mid-year-trends.
7. Reference should be made here to the previous work of the Assembly, in particular Resolution 1668 (2009) and Recommendation 1871 (2009) "Ban on cluster munitions" (Doc. 11909), and Recommendation 1343 (1997) "Anti-personnel landmines and their humanitarian implications" (Doc. 7891).

Mine Center of the Civil Protection Directorate, Croatia, and Lieutenant-colonel Jean-Michel Granger, Head of the Governance Office in charge of the treatment of the danger of ammunition and explosives, Land Army, France. The rapporteur thanks all these valuable experts for their knowledge that provided precious added value for the preparation of this report.

2. Unexploded ordnance: relevant international legal framework and customary international humanitarian law

8. Several treaties and conventions cover the issue of the ban on arms and weapons as well as of disarmament, especially thanks to the United Nations and its Office for Disarmament Affairs. These texts were complemented by customary international humanitarian law (IHL). According to IHL, while there is no general prohibition against the use of explosive weapons, any use of such weapons must comply with IHL and is prohibited if targeting civilians.[8] As the International Committee of the Red Cross (ICRC) recalls it,[9] IHL also prohibits or restricts the employment of certain weapons.

9. This implies identifying the weapons that represent a direct danger to civilians and have long-term impacts on their lives, including long-term exile and difficulty returning to their homes. Unexploded explosive weapons are the weapons that have both immediate and long-term impacts on populations. The UN define[10] explosive weapons as "systems that use munitions or devices whose primary destructive effect is caused by the detonation of a high explosives creating a blast and fragmentation zone... Examples include indirect fire weapons, such as artillery, rockets, and mortars; weapons that fire in salvos, such as multi-launch rocket systems; large air-dropped and sea-launched bombs; surface-to-surface ballistic missiles; and improvised explosive devices. Explosive weapons with "wide area effects" form a major subset of explosive weapons. They include weapons that use munitions with a large destructive radius, that fire in salvos or that deliver multiple munitions over a wide area".

10. Regarding international texts dealing with disarmament and bans on arms and weapons,[11] the first conventions dealing with these matters are the Hague Conventions of 1899 and 1907 respecting the Laws and Customs of War on Land and their annexes on Regulations concerning the Laws and Customs of War on Land. Both texts are almost identical and forbid to employ arms, projectiles, or material calculated to cause unnecessary suffering, as well as the attack or bombardment of towns, villages, habitations or buildings which are not defended. Both conventions also oblige to spare *inter alia* hospitals and religious sites during bombardments. The 1980 UN Convention[12] on Certain Conventional Weapons and its five protocols ban the use of non-detectable fragments, mines, booby traps and other devices, incendiary weapons, blinding laser weapons, and explosive remnants of war. Later on, the 1997 UN Anti-Personnel Mine Ban Treaty, also referred to as the Ottawa Convention, imposes on State Parties never to use, develop or produce anti-personnel mines. Under this convention, States must never and under any circumstances use, develop, produce, stockpile or transfer anti-personnel mines or help anyone else to do so. They must also destroy existing anti-personnel mines. According to the 2008 UN Convention on Cluster Munitions, State Parties undertake, *inter alia*, never to use, develop or produce cluster munitions. The text prohibits the use of these weapons, defined by the text as explosive bomblets that are specifically designed to be dispersed or released from dispensers affixed to aircraft. The text also states that this Convention does not apply to mines.

11. Regarding the protection of civilians, the four Geneva Conventions of 12 August 1949 and their additional protocols are reference texts for this matter and were built on the earlier treaties for the protection of war victims. They aim at ensuring general protection of civilians against dangers arising from military operations. They state that indiscriminate attacks are prohibited, defining such attacks as being those which are not directed at a specific military objective, those which employ a method or means of combat which cannot be directed at a specific military objective, or those which employ a method or means of combat of a nature to strike military objectives and civilian populations or civilian objects without distinction. Additionally, such attacks may be expected to cause, in a disproportionate manner with regard to the military advantage expected, incidental loss of civilian life, injury to civilian populations, damage to civilian objects, or a combination thereof. Furthermore, the conventions prohibit individual or mass forcible transfers, as well as

8. Section 2.5 of the 2022 Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences arising from the use of Explosive Weapons in Populated Areas.
9. www.icrc.org/en/document/weapons.
10. https://news.un.org/en/story/2022/06/1119552.
11. Treaties and customary international humanitarian law are available on the website of the ICRC, www.icrc.org/en/war-and-law/treaties-customary-law.
12. All UN treaties are available on the Treaties Database of the UN Office for Disarmament Affairs, https://treaties.unoda.org/.

deportations of protected persons from occupied territory to the territory of the occupying power or to any other country. In the case of forced displacement of civilian populations, their rights to return to and enjoy their homes and property should be implemented as soon as the reasons for their displacement cease to exist. And in case of forced movements occurring despite their prohibition, parties should take all possible measures "in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition".

12. Customary IHL came confirming, completing and/or interpreting treaties concerning the restriction, prohibition, development, possession and use of certain weapons, but also concerning the displacement of populations. Regarding the prohibition of weapons, IHL specifies that these are weapons that render death inevitable; cause superfluous injury or unnecessary suffering; cannot be directed against a specific military objective or whose effects cannot be limited in accordance with the provisions of IHL; and that cause widespread, long-term and severe damage to the natural environment. IHL rules prohibit indiscriminate attacks, oblige to distinguish between the civilian population and combatants and between civilian objects and military objectives. IHL also obliges to respect the principle of proportionality and the obligation to take precautions to minimise the consequences of an attack for the civilian population.

13. Regarding displacement of civilian populations in times of armed conflict,[13] IHL states that Parties to an international armed conflict may not deport or forcibly transfer the civilian population of an occupied territory, in whole or in part, unless the security of the civilian populations involved or imperative military reasons so demand. Evacuation can also be the result of an effective advance warning given by the attacking forces. However, evacuations must be temporary and displaced people have a right to voluntary return in safety as soon as the reasons for their displacement cease to exist. When population movements lead individuals outside their own country, they are protected by international refugee law. Furthermore, IHL requires that each party to a conflict must, to the extent feasible, remove civilian persons and objects under its control from the vicinity of military objectives. IHL finally prescribes that the property rights of displaced persons must be respected at all times and all places.

14. The Council of Europe does not have any military vocation and, thus, does not work *per se* on weapons and disarmament. The Organisation has nonetheless covered the issue of weapons through various aspects, including their impact on civilians' lives, the displacement of populations, the environment, and citizens' fundamental rights.

15. On the issues of weapons and impacts on populations, the Assembly recalled in Resolution 2391 (2021) "Humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict" its deep concerns regarding "indiscriminate use of weapons resulting in the killing and injuring of civilians", reminding both sides that they "had a responsibility to respect international humanitarian law and protect civilian populations from explosive weapons". The Assembly recalled that "the conflict region is one of the most contaminated by mines and unexploded ordnance in the world" and called on parties to release all mine maps and to set up mine and unexploded ordnance awareness programmes, and on the international community "to provide assistance in terms of equipment, training and funding for the clearance of what could be around a million mines". The Assembly additionally noted "the problems facing those displaced, namely the lack of long-term shelter, ongoing cash assistance, education for children and the provision of livelihoods, in particular for women".

16. On the issues of displacements, returns and property, the Assembly considers in Resolution 1708 (2010) "Solving property issues of refugees and internally displaced persons" that "restitution is the optimal response to the loss of access and rights to housing, land and property because, alone among forms of redress, it facilitates choice between three 'durable solutions' to displacement: return to one's original home in safety and dignity; local integration at the site of displacement; or resettlement either at some other site within the country of origin or outside its borders." On the same issue, the Committee of Ministers of the Council of Europe recommended in Recommendation Rec(2006)6 to member States on internally displaced persons that "internally displaced persons [be] entitled to the enjoyment of their property and possessions in accordance with human rights law. In particular, internally displaced persons have the right to repossess the property left behind following their displacement. If internally displaced persons are deprived of their property, such deprivation should give rise to adequate compensation".

17. The Assembly furthermore recommended in Resolution 2379 (2021) "Role of parliaments in implementing the United Nations global compacts for migrants and refugees" that members of parliaments address the root causes of forced displacement "by looking at conflict resolution, peace building and

13. www.icrc.org/en/document/ihl-displacement.

reconciliation, and by tackling issues relating to inequality, security and climate change, which can lead to forced displacement of populations." The Assembly also called member States' parliaments in Resolution 2408 (2021) "70th anniversary of the 1951 Refugee Convention: the Council of Europe and the international protection of refugees" "to ensure full support for UN-led initiatives for the protection of refugees and asylum seekers, to support the relevant Council of Europe actions and to take specific actions at national level". The Assembly added that "the efficient and expeditious return of persons found not to be in need of international protection is key to maintaining the integrity of asylum systems in Europe and to the international protection system as a whole, [urging] the governments of all member States to put in place efficient asylum procedures that maintain fairness safeguards and adhere to international law, including the principle of *non-refoulement*."

18. The European Court of Human Rights expressed in several key cases[14] a clear view about unexploded ordnance and the conditions and rights of civilian populations forcibly displaced to return. In *Oruk v. Turkey* (Application No. 33647/04, judgment of 4 February 2014), the Court recognised the impossibility for civilian populations to access their home, "relating to the State's obligation under Article 2 of the Convention to take appropriate measures to protect civilians living near a military firing zone against dangers emanating from unexploded ammunition". In *Sargsyan v. Azerbaijan* (Application No. 40167/06) and *Chiragov and others v. Armenia* (Application No. 13216/05; both judgments of 16 June 2015), the Court concluded, as regards Nagorno-Karabakh and adjacent occupied territories, to a violation of Article 1 of the Protocol to the European Convention on Human Rights (STE No. 8) (the protection of property and peaceful enjoyment of possessions), as well as to a violation of Article 8 of the European Convention on Human Rights (STE No. 5) (right to respect for private and family life), and of Article 8.1 (respect for private and family life, and respect for home).

3. The humanitarian impacts and consequences of the use of explosive weapons in populated areas

3.1. The effects of explosive weapons on civilian populations

19. During conflicts, explosive weapons cause immediate civilian casualties, injuries or deaths, but also have long term consequences such as illness or disabilities, despite the fact that civilians should not be targets of weapons. Post-conflict, landmines and unexploded ordnance cause civilian casualties during very long periods.

20. According to the ICRC, the deployment of explosive weapons with a wide impact area in populated areas can hardly be in conformity with IHL. The deployment of explosive weapons in populated areas provokes massive displacements of civilians. They are part of the collateral damage of conflicts and can last for many years after conflicts end due to numerous landmines and unexploded ordnance remaining in or near populated areas. Experts also raise the issue of cluster munitions, particularly destructive for humans, and which stay unexploded in 15 to 30 % of cases. In its report "Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas",[15] ICRC provides a broad evidence-based assessment of the devastating consequences of such explosive weapons in populated areas$.

21. Migrants and refugees are also collateral victims of unexploded ordnance along their migration routes when they cross lands and urban areas with the presence of unexploded ordnance. For instance, 150 000 pieces of unexploded ordnance remain dotted around areas of the Balkans, while many informal migrant camps are close to areas littered with such unexploded ordnance. In 2021, a landmine from the 1990s Balkan wars exploded, killing a migrant and injuring several others in an area of central Croatia, while a group of asylum seekers was attempting to cross the country.[16]

22. Beyond the physical effects, unexploded ordnance has long-term "reverberating effects",[17] as the UN qualify them, affecting civilian populations. They face both immediate psychological distress following explosions and their immediate aftermath and are victims of post-traumatic stress disorder, which occurs in a person whose personal integrity is threatened because she or he has been exposed to a traumatic event. Numerous reports have documented the fear felt by civilian populations living in areas where explosive weapons have been deployed.[18] Handicap International[19] raised similar observations in a case study of 2024

14. See https://hudoc.echr.coe.int/ for accessing all case law of the European Court of Human Rights.
15. www.icrc.org/en/explosive-weapons-populated-areas.
16. www.theguardian.com/world/2021/mar/07/croatia-landmine-from-1990s-balkans-war-kills-asylum-seeker.
17. https://news.un.org/en/story/2022/06/1119552.
18. See for instance Handicap International, www.hi.org/en/index, www.hi-us.org/en/action/explosive-weapons.
19. www.hi.org/en.

on “The Impact of Explosive Weapons in Ukraine – Focus on hard-to-reach areas”, including direct and indirect impacts on community cohesion, mental health and psychological well-being, as well as other social and economic impacts.

3.2. Forced displacements and the aggravated consequences on women and children

23. The Geneva Conventions prohibit forced displacement of civilian populations and strongly recommend their right to return and enjoy their homes and property as soon as the reasons for their displacement cease to exist. It remains that the use of explosive weapons and the presence on the long term of unexploded ordnance, especially in populated areas, contribute to large-scale displacements of populations, forcing people to leave their homes, often for long periods, and to live in precarious conditions. Women and children account for a large proportion of incidental civilian casualties, as shown by the International Committee of the Red Cross.[20]

24. Regarding children, the 2000 Optional Protocol to the Convention on the Rights of the Child, relating to the involvement of children in armed conflicts, came reinforcing the protection of children from conflicts and their enrolment. It remains that children account for roughly half of the casualties from explosive weapons. The United Nations International Children's Emergency Fund (UNICEF)[21] underlines that children are vulnerable for numerous reasons. When explosive weapons are used in populated areas, over 90 % of victims are civilians, including many children, who are more likely to suffer injuries to multiple regions of the body. Long after conflicts, unexploded ordnance causes death and injuries to children, who are particularly vulnerable as they are attracted by such items for their colourful appearance and unaware of how dangerous they are. Some of these weapons, which are improvised explosive devices, are familiar household objects that have been turned into explosives.

25. Beyond the immediate effects of explosive weapons, child survivors endure on a longer term physical injury and various forms of psychological or emotional trauma. But explosive weapons also inflict indirect and severe harm on children, such as the effects of explosions on civilian infrastructure and services – like water pipelines, sanitation facilities, hospitals and schools –, exposing them to disease outbreaks and more, such as dying from diarrhoeal disease linked to unsafe water and sanitation. Children are also deprived of other essential services, such as education, when schools are damaged or destroyed or when teachers are killed or injured, interrupting or halting access to education. When they are refugees abroad, they have access to schools in host countries but often face language difficulties, without mentioning the lack of teachers teaching in the children’s mother tongue.

26. Regarding women, the aggravated consequences are different from children but no less important. They suffer more than men from consequences of explosive weapons disseminated in populated areas due to cumulative factors. Women are at greater risk of attacks in residential areas and markets and have more difficulties in accessing healthcare or rehabilitation because of social inequalities, being more vulnerable to stigmatisation and marginalisation. Moreover, pregnant women or new mothers are more vulnerable to disease caused by lack of safe drinking water. Women that are displaced or separated from their families and communities have, moreover, a higher risk of experiencing sexual violence or exploitation. They are particularly subject to gender-based violence, with a greater risk of being subjected to harassment, domestic violence, rape, trafficking, forced prostitution, and other crimes that are disproportionately targeted at women and that often remain unpunished.

3.3. The effects of explosive weapons on infrastructure and services

27. Critical civilian infrastructure and essential services severely suffer from conflicts. The UN have underlined[22] how such circumstances cause disruption of services essential to the survival of civilians. Health-care facilities are hit, hampering the delivery of medical care. Housing and essential civilian infrastructure, such as drinking water and wastewater treatment plants, gas and electricity supply systems, are damaged or destroyed, increasing the risk and spread of disease and further burdening the healthcare system. Other damaged or destroyed civilian infrastructure, such as roads, supermarkets, places of business or the internet, contributes to displacement. Judith Kiconco, Humanitarian Affairs Adviser at the Delegation to the African Union at the ICRC, recalled that “the destruction of critical infrastructure in turn leads to degradation or interruption of essential services thus resulting in more deaths and diseases. For those who survive, life in the ruins becomes unbearable and they are forced to flee leading to long-term displacement.”[23] In the longer

20. www.icrc.org/en/document/civilians-protected-against-explosive-weapons. See also www.peacewomen.org.
21. www.unicef.org/protection/protecting-children-from-explosive-weapons.
22. https://news.un.org/en/story/2022/06/1119552.

term, unexploded ordnance prevents or delays reconstruction work and agricultural production. Contamination by unexploded ordnance results in the blocking of natural resources, complicating the socio-economic development of a community, circumstances further complicated for rural populations, who depend economically on the access to land. Forced displacements also have economic consequences within traditional employment sectors lacking workforce.

28. In an article from July 2023,[24] Agence France Presse quoted by France 24 underlined how "mines are being used in 'phenomenal quantities' in Ukraine, including some types that are prohibited under international law, making the country one of the world's biggest minefields." When the article was issued, experts evaluated that some 30 % of Ukrainian territory might have mines. However, it is "impossible to count and map" them while war is raging, said in that article Baptiste Chapuis, Senior Advocacy Advisor at Handicap International. The article recalls that while conventional landmines targeting enemy vehicles are allowed, anti-personnel munitions that aim to mutilate or kill humans are prohibited under the Anti-Personnel Mine Ban Treaty, adding that Ukraine is a signatory of the convention, but major powers including Russia, China and the United States of America are not. Mr Chapuis recalled that mines "condemn civilians for decades, and compromise the return of economic and social life for a very long time." Experts affirm that it could take decades to demine Ukraine, as it took for other regions in Europe, which suffered from past conflicts, such as in the Balkans where, 30 years later, the concerned countries are still pursuing demining.

3.4. The environmental impact of wars and unexploded ordnance

29. The Assembly previously addressed the issue of the environmental impact of armed conflict in Resolution 2477 (2023), but not through the angle of displaced persons. The 1976 UN Convention on the prohibition of military or any other hostile use of environmental modification techniques engages each State Party "not to engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects", inviting instead States to facilitate and participate in scientific and technological information on the use of environmental modification techniques for peaceful purposes. By "environmental modification techniques", the Convention "refers to any technique for changing – through the deliberate manipulation of natural processes – the dynamics, composition or structure of the Earth, including its biota, lithosphere, hydrosphere and atmosphere, or of outer space." The text invites States and international organisations "to international economic and scientific co-operation in the preservation, improvement and peaceful utilization of the environment, with due consideration for the needs of the developing areas of the world."

30. Beyond the human toll, wars and remnants of war have a catastrophic impact on environment, on land and under water. The components of explosive weapons and their remnants (metals and explosive substances made of toxic elements) contaminate soils, subsoils, water sources. They spread beyond populated areas, poisoning flora and fauna, having a significant impact on entire ecosystems, which may take years, if not decades, to remedy. As underlined by the ICRC, population centres are surrounded by the natural environment and largely depend on it. There is an increasing concern about the potential, immediate and long-term, impacts on the natural environment of toxic substances and other pollutants that may be released by the use of heavy explosive weapons in populated areas. This can have serious repercussions for public health.

31. The Geneva International Centre for Humanitarian Demining (GICHD)[25] underlines that "landmines and other Explosive Remnants of War (ERW) make land and other natural resources inaccessible and cause overexploitation of those available, which also leads to soil degradation. Moreover, they adversely affect biodiversity through unplanned explosions or leaks of chemical substances into soil and water." GICHD adds that "remnants of conflict can set in motion a chain of events leading to environmental harm in the form of soil degradation or deforestation, possibly affecting entire species by degrading habitats and altering food chains." Furthermore, "despite their positive impact, mine action operations can also have unintended adverse consequences on the environment and some have been subject to environmental enquiry, as is the case for mechanical flails and tillers. To ensure that environmental considerations are taken into account, it is important they are mainstreamed within the mine action sector and in particular in how programmes are planned and implemented."

23. www.icrc.org/en/document/ewipa-icrc-statement-use-explosive-weapons-populated-areas.
24. www.france24.com/en/live-news/20230614-reliance-on-mines-in-ukraine-war-leaving-sinister-legacy.
25. www.gichd.org.

32. During the 4th Summit of Heads of State and Government of the Council of Europe held in Reykjavik on 16-17 May 2023, the European leaders committed *inter alia* to strengthen their work on the human rights aspects of the environment and on the work of the Council of Europe in this field. The present report is an integral part of the new Council of Europe's priority aimed to link human rights and environment, by strongly advocating against the use of explosive weapons, with the objective of clearing territories of landmines and unexploded ordnance and of their devastating environmental consequences.

4. Best practices: tackling the use of explosive weapons and managing the removal of unexploded ordnance

33. While preparing this report, the rapporteur launched a consultation of parliaments via the European Centre for Parliamentary Research and Documentation (ECPRD). The answers to the questionnaire permitted to collect data from 42 Council of Europe's member States and observers. The questionnaire asked parliaments the following questions:

> *1. Did your country sign and ratify international instruments dealing with the use of explosive weapons (The Hague Conventions of 1899 and 1907; Geneva Conventions; etc.)?*
>
> *2. Does your country have a legislation on the use of explosive weapons?*
>
> *3. If your country was affected by a conflict and subsequently by landmines and non-exploded ordnance:*
>
> > *3.1. Which measures did your country take to remove such ordnance?*
> >
> > *3.2. Does your country have a specific administration or another type of structure dealing with demining?*
> >
> > *3.3. Does your country have official data about population displacement due to war, post-war consequences such as remaining landmines and other non-exploded ordnance?*
> >
> > *3.4. Does your country have data regarding populations that were prevented from returning home due to a war or a passed war with the abovementioned consequences?*

34. The consultation demonstrated that most Council of Europe member States and observer States are parties to various IHL agreements and related treaties concerning explosive weapons and their prohibition, despite variations depending on the agreements. The non-ratification by certain countries[26] reflects diverging priorities and security considerations, and can sometimes be explained by their respective modern histories. Some States reported having successfully fulfilled their international obligations coming from the relevant treaties. Among other examples, Croatia fulfilled its obligation to destroy existing stocks of cluster munitions and is pursuing cleaning up areas contaminated by such munitions. Cyprus and Hungary declared having completed all demining operations required by the Anti-Personnel Mine Ban Treaty. Regarding domestic legislation on the use of explosive weapons, most of the member States[27] declared having issued a comprehensive national legal framework regulating the possession and use of weapons and explosive substances.

35. Regarding States affected by conflicts and subsequently by landmines and unexploded ordnance, a significant number of respondents[28] reported that the most recent armed conflict that has affected their territory and left behind landmines and unexploded ordnance is Second World War. Many States that were affected by First and Second World War still bear the burden of unexploded ordnance and other remnants of war on their territorial lands and waters, which still cause injuries and fatalities despite ongoing demining efforts.

36. Several member States were affected by more recent conflicts. This was the case for Latvia and Lithuania, where explosive objects have been left behind by the occupation forces of the Soviet Army at their former firing ranges and military bases. In Hungary, mines and munitions contaminated areas date back not

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26. Notably Andorra, Armenia, Azerbaijan, Georgia, Israel, Malta, the Republic of Moldova, Monaco, San Marino, and Türkiye.
27. Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Montenegro, the Republic of Moldova, the Netherlands, North Macedonia, Norway, Poland, Portugal, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Türkiye, and Canada.
28. Austria, Estonia, Finland, France, Germany, Greece, Italy, Luxembourg, the Republic of Moldova, Norway, Poland, Slovakia, Slovenia, and Sweden.

only to Second World War but also to the more recent Serbian-Croatian wars (1991-1992, 1994-1995). Additionally, all States of the former Socialist Federal Republic of Yugoslavia were contaminated by unexploded ordnance as a result of the 1992-1995 conflict related to the break-up of the former Yugoslavia (Bosnia and Herzegovina, Croatia, Montenegro, North Macedonia, Serbia, and Slovenia). In Croatia, the UN Mine Action Service has estimated that there are 13 000 square kilometres of potentially contaminated territory by explosive ordnance, representing almost 23% of Croatia's land area. The aerial bombing campaign carried out by the North Atlantic Treaty Organization (NATO) in 1999 against the Federal Republic of Yugoslavia also left an abundant unexploded ordnance, as well as the 2001 conflict in North Macedonia with local Albanians. The consultation also revealed that, apart from conflicts and wars, military training exercises and incidents involving explosive ordnance carried by ships, planes or vehicles have also led to create "legacy sites" that still contain unexploded ordnance.

37. Regarding measures taken by States to remove unexploded ordnance, several of them have established specific mine action plans and put in place specific administrations or institutions dealing with demining. Bosnia and Herzegovina took significant measures and issued a Law on Demining accompanied by the 2018-2025 Strategy on action against mines, succeeding in clearing more than 2/3 of its suspected hazardous areas. Croatia has established a specific framework for demining, which includes the Act on mine action and the National mine action strategy. Croatia moreover developed domestic standards based on a set of standards and guidelines established by the International Mine Action Standards (IMAS), and established a Croatian Mine Action Centre. In Cyprus, the National Guard is the responsible authority for demining operations. In Germany, explosive ordnance disposal is predominantly assigned to the local authorities and the länder have established special services. Hungary has set up the Mine Action Program and the task of demining belongs to the Bomb-disposal and Mine-searcher Battalion of the Hungarian Armed Forces. In Montenegro, legal acts prescribe the procedures regarding the handling, protection and disposal of explosive weapons and materials, such as the Rulebook on the Manner of Providing Protection from unexploded ordnance. In North Macedonia, the Direction for Safety and Rescue is the responsible national institution for protecting from unexploded ordnance, including area search, detection of explosive devices and their destruction. Romania has a specific Ministry of Defence Explosive Ordnance Disposal structure responsible for the intervention and cleaning of unexploded ordnance. Türkiye issued the Act on Demining Activities along the Land Border and Tender Procedures between the Republic of Türkiye and the Syrian Arab Republic, and developed measures to raise public awareness and prevent possible accidents in areas under risk. In addition, a Mine Clearance Plan has been initiated in order to remove the landmines in the country, led by the National Mine Action Centre. Canada developed public education as a means to reduce unexploded ordnance risk and thanks to the Unexploded Explosive Ordnance Program, which identifies and catalogues legacy sites, assesses risks, and works to reduce unexploded ordnance risk.

38. In some countries affected by contaminated land, international agencies, including the UN, civilian companies, and civil society organisations take part in demining activities together with national authorities, such as in Georgia with the National Demining Program established in 2009, with the support of the HALO Trust. In Slovenia, the National Civil Protection Unit is responsible for unexploded ordnance protection and comprises 34 trained volunteers, operating under the leadership of the Administration of the Republic of Slovenia for Civil Protection and Disaster Relief. In North Macedonia, national institutions have been assisted by international agencies, including the UN, to conduct several demining actions at targeted areas.

39. At international level, some initiatives also deserve to be reflected in this report. For instance, several military authorities of the Baltic Sea region have developed international co-operation in order to locate and clear mines, called the Baltic Naval Force Squadron (BALTRON). In July 2023, Croatian Prime Minister Andrej Plenković announced a demining assistance programme from his country to Ukraine.[29] While talking of about 35 years of mine clearance activities in a territory considerably smaller than the territory of Ukraine, Croatian Prime Minister announced that his country was planning to complete the clearance of mines, left over from the war, by 2026.

40. The European Agency for Law Enforcement Training is an agency of the European Union dedicated to develop, implement and co-ordinate training for law enforcement officials. In November 2023, the Agency developed an onsite activity[30] aiming to enhance the fight against chemical, biological, radiological or nuclear devices and explosives. This activity was dedicated to senior police officers from bomb data centres, forensic experts, bomb technicians, post-blast investigators and other experts related to the explosives field.

29. https://mia.mk/en/story/pm-promises-croatias-help-to-ukraine-in-mine-clearance-and-war-crimes-prosecution.
30. www.cepol.europa.eu/training-education/80-2023-ons-european-explosive-ordnance-disposal-network.

41. The signatories of the 2022 Dublin Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas state willing to "ensure the marking, clearance, and removal or destruction of explosive remnants of war as soon as feasible after the end of active hostilities in accordance with [their] obligations under applicable international law, and [to] support the provision of risk education." The International Network on Explosive Weapons[31] is also a relevant example. This international network of nearly 50 NGOs calls for immediate action to prevent human suffering from the use of explosive weapons in populated areas. Its member organisations engage in research, policy and advocacy to promote greater understanding of the issues arising from explosive weapons use in populated areas, and concrete steps that can be taken to address it.

42. Parliamentarians for Nuclear Non-proliferation and Disarmament[32] is a non-partisan national and international forum for parliamentarians aimed to share resources and information, develop co-operative strategies and engage in nuclear non-proliferation and disarmament issues. The forum issued a guide to parliamentary action in support of disarmament for security and sustainable development, gathering relevant domestic legislation. Concerning cluster munitions, landmines and explosive weapons in populated areas, the guide recalls relevant IHL and suggests recommendations to parliamentarians and parliaments, aiming to prevent the use of explosive weapons with wide area effects in populated areas.

43. The HALO Trust[33] is a non-profit organisation aimed at demining territories, both during and after conflicts. It employs around 10 000 staff, 98 % of whom come from the mined communities in war-torn countries and territories around the world where HALO is active. The organisation intervened in Kosovo*[34] in the 1990s, in Georgia in 2008, in Sri Lanka in 2009, and is present nowadays in Libya and Yemen. HALO works to assess dangerous areas and carries out emergency clearance in order to prevent injuries and open-up vital access for aid.

5. Ensuring voluntary, safe, dignified and sustainable return of forcibly displaced populations

44. While return is often the preferred solution of refugees and internally displaced persons, it is not always feasible. There are indeed several factors that determine people's willingness and ability to return. These include the lack of improvement of the political and security situations in the country of origin, the lack of economic and employment opportunities, or poor services generally available in affected areas, where people are expected to rebuild their lives. Labour market policies are thus essential to ensure an efficient allocation of human capital in the areas of origin, whether by skills mapping and planning or by enhancing job brokerage services, namely connecting job seekers with vacancies. Another factor is the recognition of qualifications, especially from European Union's countries, to enable displaced persons who have acquired skills and qualifications outside their country of origin to be able to use them in their career paths once back. A dignified return also implies considering the cultural background but also people's experiences and expectations both prior to and during displacement. A dignified return is only possible if acceptable social, political and economic conditions exist in the country of origin.[35]

45. There are however several obstacles impeding the return of forcibly displaced persons. They consist of three main elements: the overall security and safety in the areas of origin, which includes the remnants of war; the level of destruction or of reconstruction of civilian infrastructure and housing; and the lack of services as well as the problematic access to livelihoods to ensure sustainable return and reintegration. Despite such obstacles and the time spent away from their areas of origin, Ukrainian displaced persons express a strong determination to return.[36]

46. The presence of landmines and unexploded ordnance is a key obstacle to the return and reintegration of forcibly displaced persons. Moreover, in most cases, landmines and unexploded ordnance are abundant and hard to quantify and localise. Although the parties to a conflict are obliged to exchange maps showing the location of explosive ordnance, the reality is often very different and unexploded ordnance contaminates both urban and rural areas on a massive scale.

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31. www.inew.org.
32. www.pnnd.org/.
33. www.halotrust.org.
34. * All reference to Kosovo, whether to the territory, institutions or population, in this text, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.
35. See for instance www.fmreview.org/return/holloway for the Rohingya in Bangladesh and Syrians in Lebanon.
36. https://euobserver.com/opinion/158116.

47. Despite such remnants of war, many civilians who were forced to flee their homes and lands due to conflicts are willing to return. For instance, UNHCR conducted a survey in 2023[37] about the Ukrainian community who fled the country since the war of aggression started. The survey revealed that the vast majority of refugees and internally displaced Ukrainians, some 77 % and 79 % respectively, want to return home one day. The report reveals that the Ukrainian refugee crisis is defined by a large degree of family separation, with many male family members remaining in Ukraine, often bringing challenges for those forced to flee the country and those left behind, without family support. Family reunification was the main motivation for refugees to return home permanently.[38]

48. Regarding the state of the civilian infrastructure and housing, the presence of explosive weapons in populated areas, but also in agricultural areas, poses a significant challenge to post-conflict reconstruction and development. Thus, this poses the problem of availability and access to basic needs and essential services, including electricity, water and sanitation, healthcare, access to education, work opportunities and adequate housing, all of which are usually hugely impacted by wars. Lack of services ultimately impact living conditions and represent obstacles to sustainable return and reintegration.

49. Voluntary repatriation in safety and dignity is thus the only traditional durable solution anchored in international human rights law. The concept of voluntariness is implied in the principle of *non-refoulement*, which is the cornerstone of refugee protection. It is important to recognise the agency of forcibly displaced persons to make informed decision to determine whether return is in their interest. To ensure the centrality of refugees' voices in discussions about their future, UNHCR is leading the regular implementation of intentions surveys with refugees, internally displaced people and returnees, collecting primary data on their current situation and intentions, and the factors influencing their decision making.[39]

50. Regarding relevant international instruments, while the 1963 Protocol No. 4 to the European Convention on Human Rights (ETS No. 46) and the 1966 International Covenant on Civil and Political Rights state that no one shall be arbitrarily deprived of the right to enter his or her own country, the Fourth Geneva Convention provides that persons who have been evacuated must be transferred back to their homes as soon as hostilities in the area in question have ceased. This has been confirmed by IHL, Rule 132 on Return of Displaced Persons,[40] which has been established as a norm of customary international law applicable in both international and non-international armed conflicts by State practice. Rule 132 is complemented by Rule 133, which imposes a respect of the property rights of displaced persons. The UN Security Council, UN General Assembly and UN Commission on Human Rights have on numerous occasions recalled the right of refugees and displaced persons to return freely to their homes in safety. The UNHCR Guiding Principles on Internal Displacement provide that "displacement shall last no longer than required by the circumstances". They also provide for the right of displaced persons to return voluntarily in another part of the country. According to international humanitarian law databases, no official contrary practice was found.[41]

51. To address obstacles to return, these multifaceted aspects have therefore to be taken into account. They are nonetheless independent from the own psychology and willingness of displaced persons to return, for instance to bring impetus with the aim to boost business and rebuild their lives, to address the need to repair flats, get schools and hospitals working, get roads repaired, and all the rest of the overwhelming package of needs their countries face in the post-war period. Such return could bring a welcome injection of human capital into the economy, by returning needed skills to the workplace of origin and stimulating both public and private sectors' productivity.

6. Conclusion and recommendations

52. Ensuring the voluntary, safe, dignified and sustainable return of populations implies efficient policies of clearance of landmines and unexploded ordnance. There are no black-and-white solutions for forcibly displaced persons to return. Numerous criteria have to be taken into account before considering this option. Beyond the practical obstacles in areas of origin, the trauma and other personal and psychosocial aspects

37. www.unhcr.org/news/press-releases/unhcr-one-year-after-russian-invasion-insecurity-clouds-return-intentions.
38. www.unrefugees.org/news/full-scale-ukraine-war-enters-third-year-prolonging-uncertainty-and-exile-for-millions-of-displaced/.
39. See for instance "Intentions and Perspectives of Refugees and IDPs from Ukraine #4", https://data.unhcr.org/en/documents/details/101747.
40. https://ihl-databases.icrc.org/en/customary-ihl/v1/rule132.
41. About UNHCR and voluntary repatriation, dedicated page: www.unhcr.org/what-we-do/build-better-futures/long-term-solutions/voluntary-repatriation. See also the Handbook for Repatriation and Reintegration Activities: www.unhcr.org/media/handbook-repatriation-and-reintegration-activities-complete-handbook.

have also to be taken into close consideration. There is thus no point in forcing refugees who fled wars and remnants or war to return. Regarding landmines and unexploded ordnance, public authorities must first and foremost provide clear guidance, aiming to ensure that lands, agricultural and urban areas are cleaned up of remnants of war, through adequate legislation and practice.

53. Resolving forced displacements of civilian populations also goes through avoidance policies. Armed forces should avoid the use of explosive weapons in populated areas, especially weapons with wide area effects, by the adoption of measures aimed to reduce such area effects in order to mitigate risks to civilian populations. The mitigation of harm to civilian populations starts with weapon design, with a view to minimise collateral damage when military objectives are targeted. Beyond, and as raised by the ICRC, States should encourage good practices, experience and lessons learnt regarding the choice and use of means and methods of warfare in populated areas, including specific restrictions on the use in populated areas of explosive weapons, especially with a wide impact area, and of alternative weapons and tactics.

54. Clearing lands and seas of landmines and unexploded ordnance is thus only possible through public authorities and armed forces joint efforts. States should ratify landmines and cluster munitions conventions when not done yet and implement conventions' measures, including prohibiting investments in the cluster munitions and landmines industries. States should also produce holistic strategies and frameworks to select the most appropriate systems and methods for deploying, detecting, documenting, examining, clearing and analysing the use, prevalence and impact of exploded and unexploded ordnance during or after conflicts. Authorities should also put a particular accent on the environmental dimension while clearing territories of landmines and unexploded ordnance.

55. Dunja Mijatović, the then Council of Europe Commissioner for Human Rights, raised in a memorandum on addressing the human rights consequences of the war in Ukraine[42] that, despite some areas having been marked off by warning signage, incidents in which civilians get injured by such remnants of war are said to occur on a daily basis. She underlined the importance of informing the population, including displaced persons, about these dangers, and providing international assistance and expertise for demining.

56. States should develop awareness raising campaigns on the behaviour of civilian populations vis-à-vis landmines and unexploded ordnance, based on the principles of detecting an item as a potential unexploded ordnance. Relevant authorities should also develop training of law enforcement officials on their behaviour vis-à-vis landmines and unexploded ordnance, and regarding the safety of civilian populations.[43] Such awareness raising campaigns should also be oriented to the protection of the environment when dealing with demining of unexploded ordnance in post-conflict situations. Specific policies should address women and children, considering their particular vulnerabilities vis-à-vis landmines and unexploded ordnance, notably by training them to recognise such ordnance and on the behaviour to adopt in such situations.

57. Favouring return can go through a state-led process, in which a State or a group of States initiates the creation of a political commitment. In this respect, UN recommend, in a statement issued on 5 June 2022[44] the adoption of an international political declaration on the use of explosive weapons in populated areas, which could lead to reducing the associated humanitarian harm, by recognising that conflicts cannot be fought in populated areas in the same way they are fought in open battlefields. "States should commit to develop operational policies based on a presumption against the use of explosive weapons in populated areas to foster behavioural change, promote concrete steps to protect civilian populations and ultimately enhance compliance with International Humanitarian Law".

58. In a strategy of voluntary repatriation, and when complex issues, such as various ethnicities, are at stake, it would be advisable to establish agreements that could be helpful tools to help judge whether return is both safe and voluntary. Depending on the peculiarities of the situations, such agreements could involve governments of the countries of refuge and origin, representatives from the displaced population, as well as UNHCR with its international mandate of seeking durable solutions for refugees, and civil society.

59. Finally, member States should take or further develop concrete measures to facilitate the voluntary, safe, dignified and sustainable return and reintegration of forcibly displaced persons. In addition to clearance of landmines and unexploded ordnance, this includes the provision of assistance to cover the basic needs of populations, such as housing, food, water, sanitation or medical care. This additionally comprises the reconstruction of civilian infrastructure, including the rehabilitation of schools, as well as the provision of

42. www.coe.int/en/web/commissioner/-/the-commissioner-publishes-her-memorandum-on-the-human-rights-consequences-of-the-war-in-ukraine.
43. www.cepol.europa.eu.
44. https://news.un.org/en/story/2022/06/1119552.

construction tools, household items and agricultural tools, seeds and fertilizer. States should also boost job markets by incentives, especially by the recognition of qualifications acquired abroad, educational and skills training programmes. IHL also underlines cases where displaced persons (or their representatives) were allowed to visit the areas of return prior to return to assess the situation with respect to safety and material conditions.

60. With its objectives and recommendations, the report responds to the 2023 Reykjavik Declaration and is fully part of the new Council of Europe's priority aimed to link human rights and the environment. It especially calls upon member States to strengthen the protection of human rights through the protection of the environment by inviting them to mainstream the environmental dimension when dealing with demining of unexploded ordnance in post-conflict situations.