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Weapons and Ammunition Management and Human Rights
Breaking down silos to improve human security.

Summary

1. The preamble to the May 2023's *Global Framework for Through-Life Conventional Ammunition Management (draft)* (abbreviated in this paper as the 'Draft Global Framework') highlights the broad and significant impact of unplanned explosions at munition sites (UEMS), including on human rights.¹ Objectives 13 and 14 recognise, respectively, the potential role of illicit ammunition in human rights abuses and the diverse impact of diversion and unplanned explosions on the rights of women, men, girls, and boys.² This paper articulates further the essential links between International Human Rights Law (IHRL), Weapons and Ammunition Management (WAM) and broader disarmament measures that are driven by human security.³
2. Synergies between the future *Global Framework for Through-Life Conventional Ammunition Management*, the International Ammunition Technical Guidelines (IATG), and IHRL can break the silos of disarmament and human rights. Such synergies make the protection of people and communities more comprehensive, covering a large part of the harmful effects of diversion and UEMS listed at the very beginning of the *Global Framework*.⁴ In doing so, states implementing the future framework are also contributing to upholding fundamental human rights and better understanding the links between the two issues.
3. Recent important developments in IHRL emphasise the centrality of prevention and due diligence norms and their possible application to the humanitarian disarmament field,⁵ in particular concerning

¹ A *Global Framework for Through-Life Conventional Ammunition Management (Draft)* (15 May 2023) (Draft Global Framework), paras 1-2. In this paper, the definition of 'diversion' corresponds to the one in 'Glossary of terms, definitions and abbreviations' (IATG 01.40) in '*International Ammunition Technical Guideline*' (Third Edition, March 2021) (hereinafter IATG 01.40), para 3.83; for a definition of UEMS, see Reina Pilar and Eric G Berman, 'Introduction' in Eric G Berman and Reina Pilar (eds), *Unplanned Explosions at Munitions Sites (UEMS) Excess Stockpiles as Liabilities rather than Assets* (Small Arms Survey, Graduate Institute of International and Development Studies 2014) 3
<https://www.smallarmssurvey.org/sites/default/files/resources/UEMS%20Handbook%202014%20content%20October_2015%20WEB_final.pdf> accessed 22 May 2023.

² Draft Global Framework, Objective 13, (a)(vi), Objective 14, (a)(iii)

³ UNGA, 'World Summit Outcome' Res 60/1 (24 December 2005) UN Doc A/RES/60/1, para 143.

⁴ Draft Global Framework, paras 1-2.

⁵ In this paper, 'humanitarian disarmament' refers to those activities and norms aimed at protecting human beings from the consequences of the use of weaponry, including their ammunition, and other related conduct,

the protection of the right to life. The fact that the content of these norms shares similarity with the measures outlined in the *Draft Global Framework* and IATG simplifies the synergies between these fields.

4. WAM measures can be framed as those that protect the right to life, as well as other interrelated rights, including the right to health and education. This paper provides the basis for framing WAM measures as such, allowing states to report WAM measures to IHRL institutions and fora, including the Universal Periodic Review. Similarly, IHRL can be key to align WAM to other relevant agendas and frameworks, such as the 2030 Agenda for Sustainable Development and the Women Peace and Security agenda.⁶
5. IHRL can contribute to increasing transparency and accountability in WAM and facilitate the involvement of the people and communities that are most exposed to the effects of diversion and UEMS.⁷ The broad scope of IHRL also offers additional articulation of people's and communities' views and needs.
6. This paper does not disregard states' security and confidentiality sensitivities regarding state-held ammunition stockpiles. In fact, a comprehensive interpretation of relevant IHRL can reveal that the protection of the right to life and other rights is compatible with WAM-related security concerns.

Setting the scene

7. Insecure and unsafe ammunition management practices can lead to diversion, UEMS, and other outcomes that risk the lives and the health of people around the world. Conversely, effective WAM activities reduce human suffering and harmful consequences, generally improving human security by strengthening national measures to meet best practice.⁸ As such, WAM activities can be seen as falling within the scope of the humanitarian disarmament field - as shown by Protocol V of the Convention on Certain Conventional Weapons (CCW)⁹ - and can be seen as a means of protecting human rights and upholding IHRL.
8. However, silos exist between humanitarian disarmament, WAM activities, and IHRL that prevent the international community from comprehensively understanding and addressing the risks unsafe WAM practices pose to the full enjoyment of human rights. Breaking down these silos offers a means of better understanding the impact of diversion and UEMS on human beings, their lives, and their

in particular during post-conflict situations, where the impact weaponry and conflict legacies can disproportionately impact people and communities. See, among others, Bonnie Docherty, 'Ending Civilian Suffering: The Purpose, Provisions, and Promise of Humanitarian Disarmament Law' (2010) 15 *Austrian Review of International and European Law* 7.

⁶ UNGA, 'Transforming our world: the 2030 Agenda for Sustainable Development' Res 70/01 (21 October 2015) UN Doc A/RES/70/01; UNSC Res 1325 (31 October 2000) UN Doc S/RES/1325.

⁷ See later, para 26.

⁸ Among others, these include the contamination caused by UEMS with Unexploded Ordnance (UXO) and ammunition made live by the UEMS. See, among others, 'Explosive Remnants of WAR (ERW) Undesired Explosive Events in Ammunition Storage Areas' (GICHD, 2002) (hereinafter *Undesired Explosive Events 2002*); see also 'A Guide to Ammunition Storage' (GICHD, 2008) (hereinafter *A Guide to Ammunition Storage 2008*).

⁹ Protocol on Explosive Remnants of War to 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 (adopted 28 November 2003, entered into force 12 November 2006) (Protocol V CCW), preamble, Article 9, and Technical Annex.

livelihoods. IHRL, with its intrinsic ability to convey the needs and views of affected people and communities, can facilitate the design of interventions aimed at preventing risky practices and the negative consequences of inadequate management of weapons and ammunition.

9. It is particularly beneficial to view WAM measures in this way, given the ‘universal respect for and observance of human rights and fundamental freedoms’ by United Nations (UN) Member States through its Charter, the Universal Declaration of Human Rights, and IHRL treaties.¹⁰ Especially as these commitments are ostensibly universal and apply without exception – including in situations of armed conflict or disaster.¹¹ Importantly, an integrated perspective aligns with a harmonised view of both national and human security.¹² Furthermore, no additional burden beyond the capacity and resources of each State is required.¹³
10. There are similarities and convergences between humanitarian disarmament and IHRL that can support the case for a closer relationship between the two and serve a basis for further integration. The Draft Global Framework recognises the human toll of diversion and UEMS and their impact on the enjoyment of human rights.¹⁴ The Draft also refers to the International Ammunition Technical Guidelines (IATG) (Objective 1), comprising the practical measures that can uphold the duty to protect human rights.
11. This working paper sets out how we may pursue a better integrated view of WAM activities, humanitarian disarmament, and IHRL.

WAM and human rights

12. A general duty to protect human rights exists under IHRL and is clearly highlighted by IHRL norms that require positive actions by states to ensure the enjoyment of human rights,¹⁵ including the right to life.¹⁶ Life and other human rights shall be protected in cases of hazard or danger that expose human

¹⁰ E.g. Charter of the United Nations (adopted 26 June 1945, entered into force 26 June 1945) 892 UNTS 119 (UN Charter), Articles 55, 56.

¹¹ The International Court of Justice confirmed this point in its relevant advisory opinions, see, among others, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Reports 1996, p. 226, para 25; see also ‘*The OHCHR Plan of Action: Protection and Empowerment*’ (May 2005) available at <<https://www.ohchr.org/sites/default/files/english/planaction.pdf>>

¹² E.g. A/RES/60/1, para 143

¹³ See later, paras 13-14.

¹⁴ See above, notes 1-2.

¹⁵ E.g. International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), Article 2(1).

¹⁶ Human Rights Committee, ‘General Comment no. 36 Article 6: Right to life’ (3 September 2019) UN Doc CCPR/C/GC/36 (General Comment No.36), paras 18 – 31; see also IACtHR, *Advisory Opinion Requested by the Republic of Colombia: the Environment and Human Rights*, Advisory Opinion (15 November 2017) OC-23/17 (*Medio Ambiente*), paras 108 – 126; African Commission on Human and Peoples’ Rights (ACoMHPR), ‘General Comment No.3 on the African Charter on Human and Peoples’ Rights: The Right to Life (Article 4) (November 2015) (hereinafter ACoMHPR General Comment No.3), paras 41 – 43.

beings to lethal or significant risks,¹⁷ including accidental explosions,¹⁸ UXO contamination,¹⁹ uncontrolled circulation of military ammunition,²⁰ widespread environmental damage, or the lack of conditions to guarantee a dignified life.²¹ A more general duty for UN Member States exists and is enshrined in Articles 55 and 56 of the UN Charter.²²

13. The duty to protect life and other human rights is a due diligence obligation that is triggered by the presence of a foreseeable risk and falls in the category of so-called ‘obligations of conduct’. The fulfilment of this obligation is measured by the steps taken by the state exercising jurisdiction over a harmful or dangerous event to protect life and human rights.²³ As such, the fulfilment of this duty can be specific to the conditions of each case, as well as the resources and capacities available to the state.²⁴
14. States also exercise a certain degree of discretion in choosing how to address risks under this duty and cannot reasonably be expected to fulfil obligations beyond their capacity or possibility.²⁵ This harmonises with the tiered approach of the IATG, which outline how to assess and mitigate risk that takes into account the baseline status and available resources and capacity.
15. Drawing on similar previous experiences of preventable harm,²⁶ IATG and the Draft Global Framework can become the reference frameworks to assess and report on how WAM measures protect the right to life and other human rights, including the right to an adequate standard of living, the right to health and food, the right to education,²⁷ as well as the right to enjoying home, private and family life.²⁸

Preventing diversion

16. The connection between diversion and the proliferation of conventional weaponry and ammunition and threats to human rights, lives and livelihoods is well documented and acknowledged by various international bodies, ranging from the UN High Commissioner for Human Rights, to the UN Security Council (UNSC).²⁹ Illicit circulation of weapons and ammunition have been found to put at risk various

¹⁷ E.g. ECtHR, *Case of Öneriyildiz v. Turkey*, Judgment (30 November 2004) (*Case of Öneriyildiz v. Turkey*), Para 71; see also IACtHR, *Case of the Sawhoyamaya Indigenous Community v. Paraguay*, Judgment (29 March 2006) (*Sawhoyamaya Indigenous Community v. Paraguay*), para 148 – 155.

¹⁸ *Case of Öneriyildiz v. Turkey*.

¹⁹ ECtHR, *Affaire Oruk c. Turquie*, Judgment (4 June 2014) (*Affaire Oruk c. Turquie*), paras 34 – 37 and 42 – 68.

²⁰ ECtHR, *Case of Vovk and Bogdanov v. Russia* (11 June 2020) (*Case of Vovk and Bogdanov v. Russia*), paras 60 – 77.

²¹ See, among others, AComHPR, *Social and Economic Rights Center (SERAC) and Center for Economic and Social Rights (CESR) v. Nigeria*. Decision (27 October 2001), para 67; *Sawhoyamaya Indigenous Community v. Paraguay*, para 148 – 180.

²² UN Charter, Articles 55 – 56.

²³ See, among others, *Medio Ambiente*, para 123.

²⁴ E.g. *Case of Öneriyildiz v. Turkey*, paras 89 – 90; ECtHR, *Case of Budayeva and Others v. Russia*, Judgment (20 March 2008) (*Case of Budayeva and Others v. Russia*), paras 128 – 132.

²⁵ E.g. *Case of Budayeva and Others v. Russia*, paras 135, 156.

²⁶ See earlier, para 12.

²⁷ E.g. ‘Impact of arms transfers on human rights Report of the United Nations high Commissioner for Human Rights (19 June 2020) UN Doc A/HRC/44/29, (Arms Transfers Impact Report 2020), para 24

²⁸ E.g. *Case of Budayeva and Others v. Russia*, para 133.

²⁹ See, for example, Arms Transfers Impact Report 2020, paras 10 – 24; see also ‘Prevention of human rights violations committed with small arms and light weapons’ (27 July 2006) UN Doc A/HRC/Sub.1/58/27* (SALW and

aspects of life and livelihood, including aspects related to the adequate standard of living.³⁰ Correlations have also been identified with instances and the prevalence of gender-based violence and violations of rights of the child.³¹ Diversion and illicit circulation are also considered significant obstructions to the achievement of several Sustainable Development Goals (SDGs), especially SDG 16 on Peace, Justice, and Strong Institutions.³²

17. Strengthening the link between IHRL and a future Global Framework, as well as other disarmament instruments, is especially relevant as the Second SDG Summit approaches in the latter half of 2023. While the SDG are already underpinned by the fundamental objective to ‘realize the human rights of all’,³³ the global scourge of armed violence has significant cross-cutting impact to warrant greater recognition of its criticality beyond SDG 16. For example, the *Draft Global Framework* links clearly to SDG 5 on gender equality and SDG 10 on broader inequalities between and within countries, demonstrating further opportunities to break down silos.
18. Measures that aim to identify incidents of diversion and their impact, such as objectives 7, 8 and 11 – 13 of the Draft Global Framework, can be instrumental to support the effective evaluation of risk, which is the first step to assess harmful impact. Importantly, this framework also encourages states to collaborate and share information (Objective 12), a measure that can establish a more comprehensive picture of the risk of diversion and potential consequences. IATG 09.10 also outlines a specific risk assessment procedure to identify the level and type of risk associated with stockpiles, including risks of theft, sabotage, and espionage.³⁴ These measures can support states to fulfil the duty to protect the right to life and other human rights.
19. After the identification and assessment of a risk, jointly reading IATG 09.10 and the 2023 Draft Global Framework provides a series of practical measures to minimise the risk of ammunition diversion, ranging from tools for physical security, such as fences and video surveillance,³⁵ to effective record-

Human Rights Report 2006); see also ‘Ten Goals to Prevent Diversion of Small Arms and Light Weapons’ (IANSA, Briefing paper, May 2022) (IANSA Diversion Paper) available at < <https://iansa.org/wp-content/uploads/2022/05/IANSAs-Ten-Goals-to-Prevent-Diversion-of-SALW-May-2022.pdf>> accessed 24 April 2023; UNSC Res 2616 (2021) (22 December 2021) UN Doc S/RES/2616 (2021); ‘Firearms Trafficking in the Sahel’ (UNODC and TOCTA Sahel, 2022) (Firearms in the Sahel 2022), < https://www.unodc.org/documents/data-and-analysis/tocta_sahel/TOCTA_Sahel_firearms_2023.pdf> accessed 24 April 2023; E LeBrun and others, ‘Extracting Evidence Opportunities and Obstacles in Assessing the Gendered Impacts of Diverted Ammunition’ (United Nations and Small Arms Survey, May 2022) (Extracting Evidence paper 2022) < <https://smallarmssurvey.org/sites/default/files/resources/SAS-BP-Extracting-evidence.pdf>> accessed 24 April 2023.

³⁰ Arms Transfers Impact Report 2020, paras 10 -24.

³¹ E.g. UN Doc S/RES/2616 (2021); Committee on the Elimination of Discrimination against Women (CEDAW), ‘General recommendation No.30 on women in conflict prevention, conflict and post-conflict situations’ (18 October 2013) UN Doc CEDAW/C/GC/30, paras 29 -32; Arms Transfers Impact Report 2020, para 12 -19; Extracting Evidence paper 2022

³² E.g. Katherine Aguirre and Robert Muggah, ‘Building the Bridge: SDG 16’ (UNIDIR and Instituto Igarapé) available < <https://unidir.org/sites/default/files/publication/pdfs//en-814.pdf>> accessed 24 April 2023; Arms Transfers Impact Report 2020, para 10.

³³ A/RES/70/01

³⁴ ‘Security principles and systems’ (IATG 09.10) in *‘International Ammunition Technical Guidelines’* (Third Edition, March 2021) (hereinafter IATG 09.10), 3.

³⁵ IATG 09.10, 4 – 11.

keeping, transparency measures, and end-use and end-user certificates.³⁶ Human activities in and around ammunition stockpiles have also to be regulated as prescribed not only by IATG 09.10, but also by relevant IHRL case-law.³⁷ Under IHRL, all of these measures can be seen as reasonable steps aimed at minimising not only the risk of diversion but also related human rights violations.

Preventing unplanned explosion at munition sites

20. Unlike diversions, the impact of UEMS on the full enjoyment of human rights is relatively overlooked. However, the working paper submitted by Costa Rica, Trinidad and Tobago and Small Arms Survey in advance of the Third Substantive Session highlights the significance of UEMS, with 636 incidents leading to more than 30,000 casualties and fatalities.³⁸ UEMS can have extensive and wide-ranging impacts, some impacts occur at the moment of the blast, others can be longer-term and include contamination with UXO and ammunition in and around the area of the UEMS as well as the related socio-economic impact.³⁹ Research on the various risks associated with ammunition stockpiles has been carried out for decades;⁴⁰ if compared with similar cases, where a foreseeable risk could have been prevented, such as in the case of a foreseeable risk of an explosion at a rubbish tip,⁴¹ those researched consequences can amount to violation of various human rights, ranging from the right to life to the right to family and home life.⁴²
21. IATG, which are particularly focused on the prevention of UEMS,⁴³ identify two types of risks: ‘individual risk’ related to ‘fatality or serious injury to a particular individual in a specific location’, and ‘societal risk’ which refers to fatality or serious injury of the ‘largest number of people’.⁴⁴ These two types of risk also identify people whose right to life can be seriously compromised by a UEMS. The reference to a ‘tolerable risk’ in IATG 02.10 resonates with the reasonableness criteria in IHRL,⁴⁵ whereby a certain minimised level of risk is accepted in case of dangerous activities. However, IATG provides limited criteria on how ‘tolerable risk’ should be defined. Therefore, IHRL should be used to define ‘tolerable risk’ to protect the largest number of human beings and avoid IHRL violations.⁴⁶ The

³⁶ Draft Global Framework, Objectives 7 – 10.

³⁷ IATG 09.10, para 8.2; *Case of Vovk and Bogdanov v. Russia* (ECHR) (2020), para 69.

³⁸ ‘Security Sector Governance Principles for the Oversight and Accountability of Ammunition Through-Life Management’ (working paper submitted by Costa Rica, Trinidad and Tobago, and the Small Arms Survey, 3 February 2023) < [https://docs-library.unoda.org/Open-Ended_Working_Group_on_Ammunition_-__\(2022\)/Working_Paper_Security_Sector_Governance_and_Ammunition_Through-life_Management.pdf](https://docs-library.unoda.org/Open-Ended_Working_Group_on_Ammunition_-__(2022)/Working_Paper_Security_Sector_Governance_and_Ammunition_Through-life_Management.pdf) > accessed 22 May 2023 (‘Security Sector Governance’ Working Paper).

³⁹ See, for instance, the various consequences of the explosions in Brazzaville in 2014, ‘Countdown to Catastrophe: The Mpila Ammunition Depot Explosions’, , *Small arms survey 2014: women and guns* (CUP 2014) 156–166. See also *A Guide to Ammunition Storage 2008*, 63; *Undesired Explosive Events 2002*, 10.

⁴⁰ See, among others, February 2023 Working Paper (above note 35); ‘Countdown to Catastrophe: The Mpila Ammunition Depot Explosions’ (n 36); ‘Unplanned Explosions at Munitions Sites (UEMS)’ (*Small Arms Survey*) <<https://www.smallarmssurvey.org/database/unplanned-explosions-munitions-sites-uems>> accessed 22 May 2023. See also *Undesired Explosive Events 2002*; *A Guide to Ammunition Storage 2008*.

⁴¹ See earlier, para 12.

⁴² *Mutatis mutandis* see *Case of Öneriyildiz v. Turkey*, para 90.

⁴³ ‘Introduction to risk management principles and processes’ (IATG 02.10) in *International Ammunition Technical Guidelines* (Third Edition, March 2021) (hereinafter IATG 02.10).

⁴⁴ IATG 02.10, para 6.2.

⁴⁵ IATG 02.10, para 6.4.

⁴⁶ See also later, para 26.

people at most immediate risk from unplanned explosions are invariably personnel from security and emergency services; this risk may extend to family members who live on or close to storage sites. In these cases, strengthening ammunition management practices directly protects the human rights of these groups and upholds the fundamental duty of care of the state.

22. There are some practical measures that can help states identify and mitigate risk. As set out in IATG 02.10, state authorities can use explosive licenses to certify the level of risk that is considered to be tolerable.⁴⁷ Another practical measure is ammunition surveillance,⁴⁸ along with other forms of inspection and monitoring activities (e.g. IATG 06.70 and 07.20).⁴⁹ These measures are thus important tools for IHRL: on the one hand, they provide the first step towards preventive measures, on the other, they shed light on the process of risk assessment and the evaluation undertaken by the authorities.⁵⁰
23. More generally, the IATG modules, which range from regulation of quantity and separation distance (IATG 02.20)⁵¹ to procedure for ammunition transport (IATG 08.10)⁵² can be seen through a IHRL lens and framed as protection of human rights. IATG 02.20, in particular, has a significant link with IHRL, as it requires states to identify the potential risks related to the potential explosion site (PES), including buildings of particular importance and vulnerability, such as hospitals and schools. Jointly reading measures to prevent diversion and UEMS, as well as relevant IHRL, creates more comprehensive and effective assessments, and increases the scope of preventive and protecting measures for people and communities.

Commonalities in preventing diversion and UEMS

24. A series of WAM measures that serve both the prevention of diversion and UEMS exist and are aligned with the duty to protect human rights. This includes legislative and administrative measures, risk communication, post-accident investigation, and destruction of ammunition.

Legislative and administrative measures

25. Domestic legislative and administrative measures outline the agreed framework within which preventative measures are adopted,⁵³ but they are also important tools for effective and sustainable implementation. IHRL can provide an important contribution to this as it requires similar legislative and administrative measures.⁵⁴ Existing IHRL legislative and reporting systems can also facilitate the incorporation of technical ammunition norms within domestic legal systems. For example, IATG 09.10 security measures on personnel resonate with the requirement by IHRL bodies to establish

⁴⁷ IATG 02.10, para 11.

⁴⁸ 'Surveillance and in-service proof' (IATG 07.10) in *'International Ammunition Technical Guidelines'* (Third Edition, March 2021) (hereinafter IATG 07.10).

⁴⁹ 'Inspection of explosives facilities' (IATG 06.70) in *'International Ammunition Technical Guidelines'* (Third Edition, March 2021) (hereinafter IATG 06.70); 'Inspection of ammunition' (IATG 07.20) in *'International Ammunition Technical Guidelines'* (Third Edition, March 2021) (hereinafter IATG 07.20)

⁵⁰ This is a process that is often undertaken by human rights bodies when an accident takes place. See, for example, *Case of Budayeva and Others v. Russia*, paras 147 – 152.

⁵¹ 'Quantity and separation distances' (IATG 02.20) in *'International Ammunition Technical Guidelines'* (Third Edition, March 2021) (hereinafter IATG 02.20).

⁵² 'Transport of ammunition' (IATG 08.10) in *'International Ammunition Technical Guidelines'* (Third Edition, March 2021) (hereinafter IATG 08.10).

⁵³ E.g. Draft Global Framework, preamble, para 14, as well as Objective 1, para a(i).

⁵⁴ E.g. *Medio Ambiente*, para 146 – 150.

accountability mechanisms for personnel tasked with the security and safety measures related to dangerous activities.⁵⁵

Community liaison and risk communication

26. Under IHRL, people and communities who are exposed to significant risks to life and other human rights need to be made aware of the risk by relevant authorities.⁵⁶ With regard to UEMS prevention, IATG 02.10 suggests involving the people affected by a risk, or their representatives, to identify the level of tolerable risk.⁵⁷ The same IATG suggests that the presence of a risk and its level is communicated through an ‘interactive process of exchange of information and opinion’ among different stakeholders, including ‘representatives from the local civilian community that may be impacted by the risk’.⁵⁸ Similar activities can also be done in the context of prevention of diversion. This aligns with the proposed language in Objective 6 of the *Draft Framework* in relation to risk education.⁵⁹ While sensitivities around communicating the locations of and risks associated with ammunition stockpiles must be acknowledged, greater inclusion of communities as the framework progresses towards implementation should be a central consideration.

Investigations

27. Beyond accountability, post-accident investigations have a threefold function: 1) learning to improve preventive measures and guarantee the non-repetition of similar accidents,⁶⁰ 2) design activities to redress the effects of an accident, and 3) support and compensate the people affected by the accidents. With regard to UEMS, IATG 11.10 outlines the procedure to react to accidents involving ammunition. IHRL contains similar obligations, especially when the accident has caused the loss of lives or serious injuries.⁶¹ The cases of *Oruk c. Turquie* and *Case of Vovk and Bogdanov v. Russia* specifically contain assessments of the investigative procedure undertaken following accidents involving ammunition and UXO. Both IATG 11.10 and IHRL require that the investigating body undertakes an effective investigation.⁶² IHRL further requires that the investigative authorities are independent,⁶³ which should be seen as a measure that increases the quality of the investigation and its outcome.

Destruction and Clearance

28. Although generally considered as technical measures, both destruction of ammunition and clearance of UXO resulting from UEMS can be seen as important practical measures to protect human rights. Destruction of unstable or surplus ammunition minimise the risk of both diversions and UEMS and can easily be seen as a measure to prevent threats to lives and livelihoods and related IHRL violations.

⁵⁵ E.g. *Affaire Oruk c. Turquie*, para 34; *Case of Vovk and Bogdanov v. Russia*, para 73.

⁵⁶ E.g. *Case of Budayeva and Others v. Russia*, para 131.

⁵⁷ IATG 02.10, para 6.3.

⁵⁸ IATG 02.10, para 12.

⁵⁹ Draft Global Framework (May 2023), Objective 6(a)(ii).

⁶⁰ ‘Ammunition accidents and incidents: unit reporting and technical investigation methodology’ (IATG 11.10) in *‘International Ammunition Technical Guidelines’* (Third Edition, March 2021) (hereinafter IATG 11.10), para 4; see also General Comment No. 36, para 28.

⁶¹ E.g. General Comment No. 36, para 27.

⁶² IATG 11.10, 2; *Case of Vovk and Bogdanov v. Russia*, paras 64 – 65.

⁶³ General Comment No. 36, para 28.

Destruction activities can prevent, for example, the loss of military ammunition, as in the case of *Vovk and Bogdanov v. Russia*.⁶⁴

29. Clearance activities are aimed at addressing the consequences of UEMS or other accidents involving UXO resulting from UEMS, which represents a danger for the life and livelihood of people and communities and constitutes a IHRL violation.⁶⁵ In *Oruk c. Turquie*, for example, the European Court of Human Rights, defined the destruction of military ammunition that can pose a risk to the life of human beings (due to their potential of causing unplanned explosions) as part of the positive obligation to protect the right to life and other related human rights.⁶⁶ In the same case, the Court hinted at the fact that clearance should be combined with explosive ordnance risk education (EORE) activities, as mentioned earlier.⁶⁷

Summary of recommendations to the OEWG

- a) Jointly interpreting WAM guidelines and IHRL to better address the human impact of diversions and UEMS and improve the protection of people and communities. This should also be considered in the context of the SDGs and the upcoming Fourth Review Conference.
- b) Orienting WAM measures according to a human-rights approach, so that human security is increased, while IHRL norms and measures are specified with relevant technical content.
- c) Framing measures to prevent diversion and UEMS as effective measures to protect the human rights of human beings that are exposed to risks, including loss of life, causation of injury, and obstruction of full enjoyment of human rights.
- d) Expanding risk assessment activities to the consequences of diversion and UEMS and, when possible, especially when these latter are human rights violations, including loss of life, as well as other specific immediate and long-term effects on the lives and livelihood of human beings, including the effects on the enjoyment of a decent standard of life, including the right to food, health, and education.
- e) Adopting the WAM through a IHRL lens to facilitate the development of sustainable, transparent and participatory solutions, which can be aligned with other relevant agendas, including Women Peace and Security and the 2030 Sustainable Development Agenda.
- f) Strengthening accountability in WAM through a human rights-oriented approach, using IHRL interaction with domestic legal and administrative systems to adopt relevant legal and administrative measures in the field.
- g) Reporting WAM measures and activities, including risk assessments, translated into IHRL language, as activities fulfilling both humanitarian disarmament and human rights protection goals to relevant international bodies, including the UN Human Rights Council and UN human rights treaty bodies, as well as the UN Firearms Protocol and the Arms Trade Treaty.

⁶⁴ *Case of Vovk and Bogdanov v. Russia*.

⁶⁵ See above, para 20.

⁶⁶ *Affaire Oruk c. Turquie*, para 48.

⁶⁷ *Affaire Oruk c. Turquie*, para 61-65: see also earlier, para 26.