

# Anti-personnel mines -

## An overview of the legal regulation in light of recent developments

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On 18 March 2025, the defence ministers of Poland, Lithuania, Latvia and Estonia announced that they have unanimously recommended that their respective countries leave the Anti-Personnel Mine Ban 1997 (the Ottawa Convention).<sup>1</sup> Debates about these developments have been circulating in news reports since Lithuania announced in March 2024 that they would leave the Convention on Cluster Munitions 2008, which came into effect in March 2025.<sup>2</sup> In light of these developments, there has been some discussion in Sweden as to whether Sweden should also leave the Ottawa Convention.<sup>3</sup> Concerns have also been raised by international humanitarian organisations, such as the International Committee of the Red Cross and Red Crescent (ICRC), about the impact of these withdrawals.<sup>4</sup> This memo aims to clarify a few questions that have arisen in this context that are relevant to the debate.

**W**HAT IS THE Ottawa Convention?  
The Ottawa Convention prohibits the use, development, production, acquisition, stockpiling, retention or transfer of anti-personnel mines by State parties under any circumstances.<sup>5</sup> State parties are also obliged not to assist, encourage, or induce anyone to engage in activity prohibited to a State party under the Convention and undertake to destroy or ensure the destruction of all anti-personnel mines in accordance with the provisions of the Convention.<sup>6</sup> The Convention also includes obligations relating to changes required in the State party's national legal system to implement the treaty obligations, as well as structures for international cooperation,

dispute settlement, meetings between State parties and review of the Convention.<sup>7</sup>

Anti-personnel mines are defined under the Convention as "a mine designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons."<sup>8</sup> Mines are defined as "a munition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle."<sup>9</sup> Mines designed to be detonated by the presence, proximity or contact of a vehicle as opposed to a person, that are equipped with anti-handling devices, are not considered anti-personnel mines.<sup>10</sup>

1 See Statement by the Estonian, Latvian, Lithuanian, and Polish Ministers of Defence on Withdrawal from the Ottawa Convention, 18 March 2025, <https://www.gov.pl/web/national-defence/statement-by-the-estonian-latvian-lithuanian-and-polish-ministers-of-defence-on-withdrawal-from-the-ottawa-convention>. See further Laura Kayali, 'Poland, Baltic states inch closer to leaving antipersonnel mine treaty, Politico', 18 March 2025, <https://www.politico.eu/article/poland-baltic-states-inch-closer-to-leaving-antipersonnel-mine-treaty/>.

2 Saulius Jakūčionis, 'Lithuania sends 'strategic message' as it leaves cluster munitions convention – MoD', LRT, 6 March 2025, <https://www.lrt.lt/en/news-in-english/19/2505198/lithuania-sends-strategic-message-as-it-leaves-cluster-munitions-convention-mod?srsId=AfmBOopLNha9CDu3mRjgkQcaaNdLWIHN3TBo6x4dhMuPNS3Yuk8Jj->. See also Justinas Žilinskas, 'When Security Prevails: Lithuania Votes to Withdraw from the Convention on Cluster Munitions', Articles of War blog, 13 August 2024, <https://lieber.westpoint.edu/when-security-prevails-lithuania-votes-withdraw-convention-cluster-munitions/>.

3 See, for example, Linda Shanwell, 'SD och KD öppnar för att slopa förbudet mot truppminor', Sveriges Radio, 30 November 2024, <https://www.sverigesradio.se/artikel/vandningen-sd-och-kd-oppnar-for-att-slopa-forbudet-mot-landminor>; and Linus Lindgren, 'Regeringen splittrad av truppminor – M säger nej', Omni, 1 December 2024, <https://omni.se/regeringen-splittrad-av-landminor-m-sager-nej/a/eMeKz9>.

4 Cordula Droege and Maya Brehm, 'Anti-personnel mines: the false promise of security through exceptionalism in war', ICRC Humanitarian Law & Policy blog, 13 March 2025, <https://blogs.icrc.org/law-and-policy/2025/03/13/anti-personnel-mines-the-false-promise-of-security-through-exceptionalism-in-war/>.

5 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction 1997, 2056 UNTS 211 (Ottawa Convention), Article 1(a).

6 Ottawa Convention, Article 1(b) and (c).

7 Ottawa Convention, Articles 4-14.

8 Ottawa Convention, Article 2(1).

9 Ottawa Convention, Article 2(2).

10 Ottawa Convention, Article 2(1).

State parties are permitted to retain a minimum number of anti-personnel mines for the development of and training in mine detection, mine clearance, or mine destruction techniques, but not more than is absolutely necessary for these purposes.<sup>11</sup>

The Ottawa Convention was opened for signature in 1997. The efforts that led to its adoption followed growing international concern during the 1990s over the indiscriminate, severe and long-term impacts of anti-personnel mines on civilians. In 1995, the Government of Canada launched a process following the first review conference of the 1980 Convention on Conventional Weapons (CCW), which led to an international strategy conference of pro-ban States “Towards a Global Ban on Anti-Personnel Mines” (hence the reference to “Ottawa” in short name of the Convention). Efforts were also made to update and amend the 1980 CCW Protocol II on Mines, Booby-Traps and Other Devices that was already in force. Whilst some amendments were agreed in 1996,<sup>12</sup> many States considered that the process did not result in sufficiently far-reaching prohibitions or restrictions. In December 1996, the UN General Assembly passed Resolution 51/45S calling on all countries to conclude a new international agreement totally prohibiting anti-personnel mines “as soon as possible”, following which Austria circulated a draft treaty to all governments and consultations took place. The final treaty text was adopted by 89 States at the Oslo Diplomatic Conference on a Total Global Ban on Anti-Personnel Mines on 18 September 1997. It came into force on 1 March 1999. As of 18 March 2025, 165 of 193 Member States to the UN had ratified the Convention.<sup>13</sup>

*Does this announcement mean Poland, Lithuania, Latvia and Estonia are no longer bound by the Ottawa Convention?*

No. The defence ministers are recommending their respective countries to leave, but the decision to leave will need to be taken in accordance with the respective countries’ constitutional frameworks. In addition, Article 20(2) of the Ottawa Convention provides that State parties withdrawing from the treaty give notice of

such withdrawal to all other States parties, to the Secretary-General of the United Nations as the Depositary of the treaty, and to the United Nations Security Council. This must include a full explanation of the reasons motivating this withdrawal. However, the recommendation by the defence ministers to withdraw from the treaty marks that these constitutional processes will now likely begin. Indeed, the Prime Minister of Finland announced on 1 April 2025 that Finland would be leaving the Ottawa Convention.<sup>14</sup>

*When would Poland, Latvia, Lithuania, and Estonia be able to use anti-personnel mines if they formally withdrew from the Ottawa Convention?*

Under Article 20(3) of the Ottawa Convention withdrawal takes effect six months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that six-month period, the withdrawing State party is engaged in an armed conflict, the withdrawal shall not take effect before the end of that armed conflict.

*What does this mean for other NATO countries that are currently signatories to the Ottawa Convention?*

States are bound by the treaties they have signed and ratified.<sup>15</sup> As such, State parties to the Ottawa Convention are bound by the Convention and not permitted to use anti-personnel mines even where they are engaged in multinational operations with other States that are not parties to the Ottawa Convention.

*What international law will apply to any future use of anti-personnel mines by these countries if they leave the Ottawa Convention?*

Anti-personnel mines are regulated under specific treaties, the provisions applicable to conduct of hostilities under the Geneva Conventions of 1949 and the Additional Protocols of 1997, and customary international law.

The amended CCW Protocol II on Mines, Booby-Traps and Other Devices 1996 is applicable to mines, remotely-delivered mines and anti-personnel

11 Ottawa Convention, Article 3(1). See also Article 3(2).

12 Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II), as amended on 3 May 1996, 2048 UNTS 93 (amended CCW Protocol II 1996).

13 See further Anti-Personnel Mine Ban Convention, ‘Adoption of the Convention’, website: <https://www.apminebanconvention.org/en/the-convention/history-and-text/history>; and Stuart Casey-Maslen, ‘Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction’, UN Audiovisual Library of International Law, March 2010, <https://legal.un.org/avl/ha/cpusptam/cpusptam.html>.

14 Sofia Hedberg, ‘Finland lämnar konventionen om personminor’, Omni, 1 April 2025, <https://omni.se/finland-lamnar-konventionen-om-personminor/alw0R1G>.

15 Vienna Convention Law of Treaties 1969, 1155 UNTS 331, Article 27. See also Articles 11, 12, 14, 16 and 18.

mines. Mines are defined under this treaty as “a munition placed under, on or near the ground or other surface area and designed to be exploded by the presence, proximity or contact of a person or vehicle”.<sup>16</sup> “Remotely-delivered mines” are “mines not directly emplaced but delivered by artillery, missile, rocket, mortar, or similar means, or dropped from an aircraft”.<sup>17</sup> The amended CCW Protocol II 1996 includes prohibitions, restrictions and requirements on the use, recording and removal of mines.<sup>18</sup>

Under Article 35(1) of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (API), the right of the parties to the conflict to choose methods or means of warfare is not unlimited. It is further prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering, or methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment.<sup>19</sup> As with all other weapons, the use of anti-personnel mines must be able to comply with the requirements of international humanitarian law (IHL).

Several challenges have been raised in complying with these requirements in the use of anti-personnel mines. This includes obligations to distinguish between civilians and combatants or other persons directly participating in the hostilities in the armed conflict,

and to direct attacks only against military objectives. Indiscriminate attacks are prohibited.<sup>20</sup> Indiscriminate attacks include those which employ a method or means of combat which cannot be directed at a specific military objective, those which employ a method or means of combat the effects of which cannot be limited as required by IHL, and attacks that cause excessive harm and damage to civilians and civilian objects in relation to the direct military advantage gained in carrying out an attack.<sup>21</sup> The obligations must also be read in the context of the general obligation to take constant care to spare the civilians and civilian objects in the conduct of military operations, as well as specific obligations to protect vulnerable individuals and groups, including women, children and disabled persons.<sup>22</sup>

In addition, the CCW Protocol V on Explosive Remnants of War 2003 is highly relevant to the use of mines in armed conflict.<sup>23</sup> This is the first multilateral treaty that regulates a wide range of unexploded and abandoned ordnances after the end of an armed conflict. The CCW Protocol V together with the Ottawa Convention has been acclaimed as an important element in efforts to end post-conflict death, injury and suffering.<sup>24</sup>

There are to date 174 State parties to API from 1977, 107 to the amended CCW Protocol II from 1996, and 99 to the CCW Protocol V from 2003.<sup>25</sup> As such, the majority of States will be bound by the obligations under API and many States additionally bound by one of the other two treaties, if not both. Sweden has ratified all

16 Amended CCW Protocol II 1996, Article 1(1).

17 Amended CCW Protocol II 1996, Article 1(2).

18 Amended CCW Protocol II 1996, Articles 3-14.

19 Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts 1977, 1125 UNTS 3 (API), Article 35(2) and (3).

20 API, Articles 51 and 52.

21 API, Article 51(4) and (5)(b).

22 API, Articles 57(1), 76, 77 See also ICRC, ‘Legal Protection of Children in Armed Conflict’, [https://www.icrc.org/sites/default/files/document/file\\_list/children-legal-protection-factsheet.pdf](https://www.icrc.org/sites/default/files/document/file_list/children-legal-protection-factsheet.pdf); ICRC, How law protects persons with disabilities in armed conflict, 13 December 2017, <https://www.icrc.org/en/document/how-law-protects-persons-disabilities-armed-conflict>; and . See further Jean-Marie Henckaerts and Louise Doswald-Beck (eds), *Customary International Humanitarian Law, Volume I: Rules* (Cambridge, Cambridge University Press, 2005) (ICRC Customary International Humanitarian Law Study), *Rule 134 (Women)* and *Rule 135 (Children)*.

23 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 (Protocol V), 2399 UNTS 1 (CCW Protocol V 2003).

24 See ICRC, ‘Protocol on Explosive Remnants of War (Protocol V to the 1980 CCW Convention), 28 November 2003’, <https://ihl-databases.icrc.org/en/ihl-treaties/ccw-protocol-v?activeTab=default>.

25 See ICRC, ‘Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977: State parties and signatories’, <https://ihl-databases.icrc.org/en/ihl-treaties/api-1977/state-parties?activeTab=default>; ICRC, ‘Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Protocol II to the 1980 CCW Convention as amended on 3 May 1996): State parties and signatories’, <https://ihl-databases.icrc.org/en/ihl-treaties/ccw-amended-protocol-ii-1996/state-parties?activeTab=default>; and ICRC, ‘Protocol on Explosive Remnants of War (Protocol V to the 1980 CCW Convention), 28 November 2003: State parties and signatories’, <https://ihl-databases.icrc.org/en/ihl-treaties/ccw-protocol-v/state-parties?activeTab=default>.

three instruments,<sup>26</sup> as have Poland, Lithuania, Latvia and Estonia.<sup>27</sup>

Even if a State was not a party to any of these treaties, they would still be bound by customary international law. Customary international law is, as a main rule, binding on all States and is based on widespread, consistent State practice motivated by the belief that they are legally bound to do so.<sup>28</sup> The ICRC conducted a study of customary international humanitarian law in 2005 and identified the following rules as specifically applicable to the use of landmines in both international and non-international armed conflicts:

- When landmines are used, particular care must be taken to minimise their indiscriminate effects;
- A party to the conflict using landmines must record their placement, as far as possible; and
- At the end of active hostilities, a party to the conflict which has used landmines must remove or otherwise render them harmless to civilians, or facilitate their removal.<sup>29</sup>

Additionally, many of the treaty obligations noted above are also reflected in customary international law and therefore binding as such on States that are not parties to those treaties. This includes the principle of distinction, precautions, and proportionality,<sup>30</sup> as well as the prohibition of weapons of a nature to cause superfluous

injury or unnecessary suffering, and the prohibition of weapons that are indiscriminate in nature.<sup>31</sup> Further norms under customary international law, such as the obligation to employ methods and means of warfare with due regard to the protection and preservation of the natural environment are also relevant to the use of mines.<sup>32</sup>

If a State planned to use anti-personnel mines within its own territory or territory under its jurisdiction, other legal frameworks would also have to be considered. Not least in this are obligations under international human rights law, where there has been practice relating to mines and similar weaponry.<sup>33</sup>

*What are the broader implications of these actions for international humanitarian law?*

Lithuania's withdrawal from the Convention on Cluster Munitions marked the first time a country has withdrawn from a global humanitarian disarmament treaty. The announcement on 18 March 2025 by the defence ministers of Poland, Lithuania, Latvia and Estonia is a further development of this practice. The practice indicates a risk that other countries will withdraw from more treaties in the field of disarmament and IHL. In related but slightly different practice, Russia withdrew its ratification of the multilateral Comprehensive Test Ban Treaty and suspended the bilateral New START (Strategic Arms Reduction) Treaty between Russia and the United States of America in 2023.<sup>34</sup>

These withdrawals from disarmament treaties are taking place in the context of a noted lack of respect

26 SÖ 1979:22, SÖ 1982:27, SÖ 1997:33, SÖ 1998:61 and SÖ 2004:47.

27 ICRC, 'Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977: State parties and signatories', <https://ihl-databases.icrc.org/en/ihl-treaties/api-1977/state-parties?activeTab=default>.

28 See International Law Commission, 'Draft Conclusions on identification of customary international law, with commentaries', Yearbook of the International Law Commission, 2018, vol. II, Part Two, p. 90-113. See also Malcom N. Shaw, *International Law* (9th ed., Cambridge, Cambridge University Press, 2021), 60-78.

29 ICRC Customary International Humanitarian Law Study, *Rules 81-83*.

30 ICRC Customary International Humanitarian Law Study, *Rules 1-21*.

31 ICRC Customary International Humanitarian Law Study, *Rule 70 (Weapons of a Nature to Cause Superfluous Injury or Unnecessary Suffering) and Rule 71 (Weapons That Are by Nature Indiscriminate)*.

32 Rule 44.

33 See, for example, UN Human Rights Committee, General Comment No. 36: The right to life, CCPR/C/GC/36, 3 September 2019, paras. 14-15, 27-28, 62, and 64-65. See also African Commission on Human and Peoples' Rights, Resolution on Anti-Personnel Land Mines, ACHPR/Res.18(XVII)95, 22 March 1995 and Resolution on the Ratification of the Convention on Anti-Personnel Mines, ACHPR/Res.26(XXIV)98, 31 October 1998; UN News, 'Committee on the Rights of Persons with Disabilities Opens Thirty-Second Session: Six New Committee Members Make Solemn Declaration', 3 March 2025, <https://www.ungeneva.org/en/news-media/meeting-summary/2025/03/le-comite-des-droits-des-personnes-handicapees-ouvre-les-travaux>; and Organization of American States, 'Action against antipersonnel mines', 24 March 2025, <https://www.oas.org/csh/english/mineintrod.asp>. See further European Court of Human Rights, *Behrami and Behrami v. France and Saramati v. France, Germany and Norway*, Application no. 71312/01, Grand Chamber Judgment, 2 May 2007, *Argysyan v. Azerbaijan*, Application no. 40167/06, Judgment, 16 June 2015, and *Georgia v. Russia (II)*, Application no. 38263/08, Grand Chamber Judgment, 21 January 2021.

34 See Ted Richard, 'An Assessment of Russia's Withdrawal from the Comprehensive Test Ban Treaty', Articles of War blog, 16 February 2024, <https://lieber.westpoint.edu/assessment-russias-withdrawal-comprehensive-test-ban-treaty/>; Philipp Sauter, 'Russia's Withdrawal from New START', Völkerrechtsblog, 1 March 2023, <https://voelkerrechtsblog.org/russias-withdrawal-from-new-start/>; and Shannon Bugos, 'Russia Suspends New START', Arms Control Association, March 2023, <https://www.armscontrol.org/act/2023-03/news/russia-suspends-new-start>.



for IHL requirements in current and ongoing armed conflicts, which have resulted in significant and unlawful harm to civilians and civilian objects, including conduct that amounts to international crimes.<sup>35</sup> Whilst the treaties do allow State parties to withdraw from these obligations, as noted it is rare to the point of non-existent in practice and has consequences on the predictability and good faith functioning of the international legal system. The

humanitarian implications of withdrawal are also concerning. Both the Convention on Cluster Munitions and the Ottawa Convention were designed in a large part to address long-term and significant harm to civilians and civilian objects. The risks involved in using these anti-personnel mines has not changed considerably since those raised in the 1990s that prompted the negotiation of the Ottawa Convention.<sup>36</sup> ■

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<sup>35</sup> See, for example, ICRC, 'Every human life deserves safety and dignity: A call to make international humanitarian law a political priority', Statement of the President of the ICRC to the UN General Assembly, 28 January 2025, <https://www.icrc.org/en/statement/icrc-president-international-humanitarian-law-political-priority>. By way of example, see further reports of the UN's Independent International Commission of Inquiry on Ukraine, <https://www.ohchr.org/en/hr-bodies/hrc/itcihr-ukraine/index>, and Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, <https://www.ohchr.org/en/hr-bodies/hrc/co-israel/index>. See also investigations opened by the International Criminal Court into crimes committed in Ukraine, <https://www.icc-cpi.int/situations/ukraine>, and the State of Palestine, <https://www.icc-cpi.int/palestine>.

<sup>36</sup> See, for example, Mine Action Review, 'Clearing the Mines: A Report by Mine Action Review for the Twenty-First Meeting of State Parties to the Anti-Personnel Mine Ban Convention', 1 September 2023, [https://www.mineactionreview.org/assets/downloads/7721\\_Clearing\\_the\\_Mines\\_2023.pdf](https://www.mineactionreview.org/assets/downloads/7721_Clearing_the_Mines_2023.pdf); Humanity & Inclusion, 'Landmine Monitor 2023: Current conflicts, long-lasting contamination cause high number of mine casualties', 14 November 2023, <https://www.hi-us.org/en/landmine-monitor-2023-current-conflicts--long-lasting-contamination-cause-high-number-of-mine-casualties>; and UN Meeting Coverage: Security Council, 'Ukraine Now among World's Most Heavily Mine-Contaminated States, Disarmament Chief Tells Security Council, Calling for Immediate End to Use of Indiscriminate Weapons' SC/15699, 20 May 2024, <https://press.un.org/en/2024/sc15699.doc.htm>. See also UN Security Council, Resolution 945, 29 September 1994, S/RES/945, para. 10; UN Security Council, Resolution 965, 30 November 1994, S/RES/965, preamble para. 7; and UN Commission on Human Rights, 'Human rights of persons with disabilities', Resolution 2003/49, 23 April 2003, E/CN.4/RES/2003/49, preamble para. 11.

