

RECOMMENDATIONS FOR ACTION

- Ukraine should accede to the Convention on Cluster Munitions (CCM) as a matter of priority.
- Ukraine should comply with its obligations under international human rights law to clear cluster munition remnants (CMR) on territory under its jurisdiction or control as soon as possible.
- Ukraine should undertake a baseline survey of CMR contamination in areas to which it has effective access.
- Ukraine should expedite implementation of its new national mine action legislation and create the necessary structures and procedures to allow systematic clearance of CMR.
- Ukraine should elaborate a strategic plan for mine action, including for CMR survey and clearance.
- Ukraine should systematically collect data on contamination from mines, CMR, and other explosive remnants of war (ERW), as well as progress in survey and clearance, and establish a centralised database for planning purposes.
- Ukraine should report on contamination, survey, and clearance activities in a manner consistent with the International Mine Action Standards (IMAS).
- Ukraine should consult with mine action stakeholders and elaborate standardised national criteria for the prioritisation of CMR clearance.

UNDERSTANDING OF CMR CONTAMINATION

The extent of contamination from CMR in Ukraine is not known. Ukraine has said that many unexploded submunitions contaminate the Donetsk and Luhansk regions,¹ with the most intensive use of cluster munitions said to have occurred in and around the city of Debaltsevo in Donetsk oblast.² Since 2017 and again in 2020, Ukraine estimated, implausibly, that total contamination by mines and ERW (including CMR) could extend over 7,000km².³ The Ukrainian Ministry of Defence (MoD) has accepted that this is a “rough” estimate.⁴

It is further suggested that up to one fifth of the explosive contamination is from mines while the rest is from different ERW, including CMR.⁵ But Ukraine cannot reliably estimate the specific extent of CMR contamination until a baseline survey has been completed.⁶ The heaviest mine and ERW contamination is believed to be inside the 15km buffer zone between the warring parties, also called the Grey Zone.⁷ Non-technical and technical survey are being conducted in the Government-Controlled Area (GCA) in eastern Ukraine but ongoing conflict means that evidence-based survey is not possible in the Grey Zone.⁸

In 2020, a total of 3.15km² of previously unrecorded CMR contamination was discovered and added to the database. The HALO Trust discovered 1.16km² while the Danish Refugee Council’s (DRC’s) Humanitarian Disarmament and Peacebuilding sector (formally known as Danish Demining Group (DDG) and hereafter referred to as DRC), reported 1.99km².⁹ The newly discovered contamination is a result of previously unknown contamination.¹⁰

Multiple reports from 2014 and 2015 indicated that both government forces and pro-Russian rebels used cluster munitions in the Donetsk and Luhansk regions of eastern Ukraine. This included Smerch (Tornado) and Uragan (Hurricane) cluster munition rockets, which deliver 9N210 and 9N235 anti-personnel fragmentation submunitions; 300mm 9M55K cluster munition rockets with 9N235 submunitions; and 220mm 9M27K-series cluster munition rockets.¹¹ In 2015, Human Rights Watch documented attacks using cluster munition rockets in at least seven locations: Kramatorsk, Artemivsk, and Hordivka in the GCA; and Komsomolske, Luhansk, Stakanov, and Starobesheve in Non-Government Controlled Area (NGCA).¹²

OTHER EXPLOSIVE REMNANTS OF WAR AND LANDMINES

Ukraine is contaminated by considerable quantities of other ERW as well as by anti-personnel and anti-vehicle mines used during the current conflict (see Mine Action Review’s *Clearing the Mines* report on Ukraine for further information on the mine problem). It is also affected by unexploded ordnance (UXO) and abandoned explosive ordnance (AXO) remaining from the First World War and Second World War¹³ and Soviet military training and stockpiles. In February 2016, Ukraine said that 32 former military firing ranges and the many other areas contaminated with explosive items from past wars covered 1,500km².¹⁴

NATIONAL OWNERSHIP AND PROGRAMME MANAGEMENT

All mine action in the Donetsk and Luhansk regions, including CMR survey and clearance, is currently overseen and coordinated by the MoD, which operates the Kamyanets-Podilsky Demining Centre.¹⁵ Operators submit annual plans for MoD's approval.¹⁶ Other national bodies involved in the sector include the Ministry of Interior (MoI), under which sits the State Emergency Services of Ukraine (SESU); the Security Services; the Ministry for Reintegration of the Temporarily Occupied Territories; the State Special Transport Services (SSTS) of the MoD; the National Police; and the State Border Service.¹⁷ The MoD has organisational control of operations, while SESU is generally responsible for conducting clearance.

Ukraine's national mine action legislation (Law No. 2642), was originally adopted by parliament on 6 December 2018 and signed into law by the President on 22 January 2019.¹⁸ Prior to its adoption, Ukraine did not have any comprehensive legal act regulating the complex set of issues regarding mine action. The Law foresaw the establishment of special governmental institutions to lead the national mine action response in the country. However, the government did not implement the Law on the grounds that it was inconsistent with a number of other legal acts. None of the institutions was created and the national mine action response in Ukraine remained uncoordinated as a consequence. In addition to the lack of implementation, the Law also had gaps and weaknesses in its regulation of victim assistance and the safety and efficiency of mine action operators.¹⁹

In June 2020, the "Law on the Amendments to the Law on Mine Action in Ukraine" passed its first reading. Following this, the United Nations Development Programme (UNDP), the Organization for Security and Co-operation in Europe (OSCE) Project Coordinator in Ukraine (PCU), The HALO Trust, and DRC came together to prepare an explanatory note suggesting further amendments. These included comments on the status of mine victims and their rights; the training and insurance of deminers; handover procedure and liability of actors after handover; and the importation of dual-use goods (to allow international operators the possibility to use explosives in order to destroy items found during demining). Currently only MoD and SESU can perform that task.²⁰

The amendments to the Law on Mine Action in Ukraine was finally signed off by the president in December 2020 and the recommendations of the working group were broadly taken into account. Yet, the new Law fell short of addressing two major concerns of the mine action community, namely: operators' licence to carry out disposal, destruction, and transportation of explosive items for explosive ordnance disposal (EOD) procedures, and operators' permits for the importation and use of so-called dual-use items. Additional legislative amendments are required to resolve these two concerns.²¹

The approved Law establishes a framework for humanitarian demining, divides responsibilities among State institutions, and foresees the creation of a National Mine Action Authority (NMAA). However, it has a peculiarity in that it envisages the creation of two National Mine Action Centres (NMACs). There will be one NMAC under the MoD and one under SESU which sits under the MoI. The latter centre will be named the "Special Humanitarian Demining Centre". The two NMACs

will share the remits of information management, quality assurance (QA), monitoring, planning, and certification of the operators and their responsibility will be divided territorially.²² The SESU NMAC will be in charge of all humanitarian demining across Ukraine with the exception of MoD infrastructure, railways (out to five metres on both sides of the tracks), which is the remit of SSTS, and some other specific areas assigned to other agencies.²³ The decision to create two NMACs as opposed to one comes as a compromise after competition between the MoD and MoI on who takes the lead on mine action.²⁴ But it does not augur well for either efficient or effective mine action.

The NMACs will be coordinated by the NMAA, an interagency body made up of the Cabinet of Ministers (CoM), which will be chaired by the MoD while "special conditions" exist in Ukraine and then during peacetime by the MoI. The National Mine Action Standards (NMAS) and the national mine action strategy will be adopted by the NMAA.²⁵

As at May 2021, the Humanitarian Demining Centre has been created in Merefa (in eastern Ukraine); the MoD NMAC was in an advanced stage in Chernihiv (in northern Ukraine) but not yet fully established. The NMAA has not yet been created. It was planned that these structures would be fully established within the six-month period set by the Law, that is by June 2021.²⁶ As at July 2021, however, the NMAA was not yet fully established,²⁷ though the MoD was assuming an NMAA role on a de-facto basis.²⁸

Operators participate in monthly mine action sub-cluster meetings, which are attended by representatives of the MoD, SESU, and Ministry of Foreign Affairs (MoFA), and which is chaired by UNDP. There are also regular roundtable meetings organised by OSCE PCU on specific mine action topics and other sectorally relevant discussions.²⁹

There is an overall positive environment and facilitation of the operators' work by the Ukrainian government (e.g., granting of visas, collaboration on security matters). But operators continue to face difficulties importing armoured equipment and dual-use items.³⁰

In 2020, DRC supported SESU in the revision of standing operating procedures (SOPs) and the improvement of the quality and compatibility of the SESU Data Management System in 2020.³¹ DRC also trained 74 SESU staff members, provided 12 metal detectors, uniforms, personal protective equipment (PPE), and other supplies for field deployment.³²

The Swiss Foundation for Mine Action (FSD) purchased two pick-ups, detectors, PPE units, medical kits, laptops, tablets, and printers, which it will provide to the MoD QA teams. In addition, FSD is planning to organise training for MoD and NMAC staff in 2021 and beyond.³³

In 2020, the Geneva International Centre for Humanitarian Demining (GICHD) supported the OSCE PCU, MoD and SESU in information management; provided a training course on operational efficiency; and contributed to the efforts to update the NMAS and the National Mine Action Law.³⁴ In the same year, the OSCE donated Protective Equipment to SESU and MoD, and printed explosive ordnance risk education (EORE) materials for the Ministry of Reintegration of the Temporarily Occupied Territories.³⁵

In 2020, The HALO Trust conducted five capacity building training courses to 50 SESU staff in order to improve knowledge, skills, and capacity for mine action activities. As at March 2021, the HALO Trust had provided a refresher demining training to 22 SESU personnel.³⁶ The trained SESU personnel have been deployed to survey and clear minefields with mentorship from HALO.³⁷ HALO also delivered the following equipment to SESU in 2020: 4 vehicles, 22 detectors, 22 PPE sets, medical kits, and radios.³⁸

The UNDP, within the auspices of the UN Recovery and Peace Building Programme (UN RPP), launched a Mine Action Project "Capacity Development Support for Integrated Mine Action in Eastern Ukraine" in mid 2020. The project, which aims to support the Government of Ukraine in establishing a comprehensive, coordinated, and gender-sensitive mine action response is funded by Canada.³⁹

GENDER AND DIVERSITY

As at May 2021 no information had been provided on whether there is a gender policy and associated implementation plan for mine action in Ukraine. No reference was made to gender or diversity in Ukraine's Article 5 deadline extension request submitted in 2020 or in Ukraine Article 7 report covering 2020.⁴⁰

DRC has a gender and diversity policy and implementation plan. It ensures that all affected groups, including women and children, are consulted during survey and community liaison activities. As at April 2021, women represent 75% of the two non-technical survey teams, 19% of clearance teams, and 50% of EORE teams. In addition, 50% of managerial/supervisory positions were filled by women, including the Head of Programme position. In an additional step to improve participation of women and children in survey and clearance activities in 2021, the DRC Ukraine programme was selected

for participation in a GICHD assessment that will strengthen capacity and practice on gender, equality, and inclusion.⁴¹

FSD does not have a gender and diversity plan in place but encourages females to apply in its job announcements. Selection and promotion are then based on qualifications. In 2020, 70% of managerial/supervisory positions in FSD were filled by women, including the Deputy Country Director and the Operations Coordinator. One in five survey and clearance team members was a women.⁴²

The HALO Trust uses mixed gender non-technical survey and community liaison teams. HALO Trust began recruiting women for clearance roles in 2017, employing the first female deminers in Ukraine.⁴³ As at April 2021, 19% of operational survey and clearance staff were women,⁴⁴ along with 50% women in non-managerial/supervisory positions.⁴⁵

INFORMATION MANAGEMENT AND REPORTING

There are two functioning International Management Systems for Mine Action (IMSMA) databases in Ukraine, one managed by SESU and the other by the MoD, both of which collect and analyse contamination and land release data from national operators and NGOs.⁴⁶ The databases are, though, claimed to be complementary, as they are separated based on region, thematic area, and operational purpose.⁴⁷ In 2019–20, the GICHD supported IMSMA Core installation and data migration. Both the MoD and SESU have IMSMA Core, though the resources available to maintain the system were limited, a problem which might be addressed by the new structure in 2021. The GICHD is currently working with its in-country partners to improve the quality of the data.⁴⁸

An online map of explosive contamination has been published by the MoD with technical support from The HALO Trust, using data from DRC, FSD, The HALO Trust, and a commercial company, Demining Solutions.⁴⁹ Operators submit survey and clearance data to the MoD on a monthly basis and each submitted a report at the end of 2020 on all survey and clearance data for the year.⁵⁰

The DRC continues to build the competences of SESU with regard to information management and reporting. The second phase of a support programme that started in 2018 and

which will continue until August 2024, began in September 2020. During this phase, DRC will help SESU expand its SOPs to cover information management, non-technical survey, QA, and Quality Control (QC). In coordination with the GICHD, the second phase will aim to improve the quality and compatibility of the SESU data management system to support the integration of IMSMA Core. DRC also plans to train 60 SESU personnel on data collection and management and to build the capacity of the information management personnel across all of the 25 regional SESU sub-offices. The data management trainings will contribute to the efforts of the mine action community to unify terminology across the SESU and MoD so that the two databases are compatible and can serve the national mine action programme effectively.⁵¹

FSD planned an ArcGIS training as part of its capacity building package for MoD QA personnel in 2021.⁵²

Despite all the capacity development support that Ukraine has received on information management, the quality of official reporting remains poor. The lack of an operationalised mine action law left Ukraine in a legal vacuum which made it very difficult to obtain information on operational capacities and outputs.⁵³ It is hoped that this will change once the structures stipulated by the law are fully functional.

PLANNING AND TASKING

Ukraine does not have a national mine action strategy and, as at April 2021, there were no plans to develop one.⁵⁴ The GICHD was invited to a roundtable meeting in March 2020, where it presented the strategic planning process. The national authorities subsequently decided to wait for the implementation of the new Mine Action Law before developing a national strategy.⁵⁵ The OSCE plans to support the NMAA, as soon as it is established, in developing a mine action strategy and expects this to be ready in 2022.⁵⁶

There are currently no standardised criteria at national level for task prioritisation.⁵⁷ Until an NMAC is fully functional, all tasking of operators is managed by the MoD in line with its annual action plan.⁵⁸ Local government have been helping the MoD to prioritise tasks based on humanitarian criteria.⁵⁹ The MoD approves annual survey and clearance work plans submitted by operators. Operators prioritise clearance according to humanitarian impact and in discussion with the local community.⁶⁰

LAND RELEASE SYSTEM

STANDARDS AND LAND RELEASE EFFICIENCY

NMAS were finalised by the MoD in September 2018 after multi-year input and review from key stakeholders.⁶¹ However, the NMAS did not consider all the inputs from the mine action stakeholders and have not been updated regularly to address new challenges and ensure employment of best practices.⁶² In May 2020, representatives from the GICHD, OSCE PCU, DRC, and HALO Trust, formed a working group with the objective of revising NMAS to better align it with the IMAS. The working group submitted its recommendations to the MoD, the acting NMAA at that time.⁶³ According to DRC, the Ukrainian government has set a deadline to finalise the NMAS by August 2021.⁶⁴

In April 2019, the CoM approved Resolution 372 on "Regulations on marking mine and ERW hazards", which are said to follow the provisions in the IMAS.⁶⁵ The lack of a functional NMAC also means that operators' SOPs are not currently accredited. Operators are therefore working in line with IMAS and donor contractual obligations rather than the NMAS.⁶⁶

OPERATORS AND OPERATIONAL TOOLS

The MoD and several other ministries continue to deploy units that undertake clearance and destruction of mines and ERW. This includes engineer-sapper units of the Armed Forces of Ukraine; the National Guard of Ukraine; the Ministry of Internal Affairs, which conducts clearance through SESU and also has an engineering department that conducts EOD; the Security Service; the State Special Transport Service, which is responsible for demining national infrastructure; and the State Border Service, which conducts demining in areas under its control on land and in the sea.⁶⁷

Three international demining organisations—DRC, FSD, and The HALO Trust—are operating in Ukraine.⁶⁸ FSD suspended demining operations in 2019 due to lack of funding but later secured additional funds and restarted its programme in 2020.⁶⁹ In addition, in 2019, the Ukrainian organisations Demining Team of Ukraine and Demining Solutions were active in demining in the east of the country.⁷⁰ In its 2020 APMB Article 5 deadline extension request, Ukraine reported that 41 demining "groups" with a total of more than 500 people were involved in mine action from these organisations.⁷¹

Table 1: Operational clearance capacities deployed in 2020⁷²

Operator	Manual teams	Total deminers*	Dogs and handlers	Machines**	Comments
HALO	25	300	0	3	Increased from 2019 by two manual demining teams (24 staff). Mechanical assets are a JCB excavator, Volvo front-loader, and case front-loader.
DRC	5	30	0	0	Increased from 2019 by three manual demining teams (each with six staff). ⁷³
FSD	3	20	0	0	One clearance team operated with only six deminers. Medics and drivers are cross-trained as deminers, and have therefore been included.
Demining Solutions	1	7	0	0	
Totals	34	357	0	3	

* Excluding team leaders, medics, and drivers.

** Excluding vegetation cutters and sifters.

In 2020, DRC deployed two non-technical survey personnel in one team and five technical survey teams, which also conduct clearance.⁷⁴ DRC increased its survey and clearance capacity in line with increased funding and expected to significantly augment its capacity further to nine clearance teams and two non-technical survey teams in the course of 2021.⁷⁵

FSD has resumed its operation in 2020 after a suspension in 2019 due to the lack of funding. In 2020, it deployed four non-technical survey personnel across two teams and seven technical-survey personnel in one team. FSD does not have plans to increase its operational capacity in 2021, but this

might change if additional funding becomes available.⁷⁶ FSD expected to receive a mechanical ground preparation machine (DOK-ING MV-4) in the early summer of 2021, which will result in the formation of a dedicated mechanical team.⁷⁷

The HALO Trust deployed 12 non-technical survey personnel across three teams and 18 technical survey personnel across three teams.⁷⁸ HALO Trust increased its clearance capacity in 2020 compared to the previous year thanks to increased funding. HALO intended to maintain the same capacity of manual clearance and technical survey in 2021, but might also increase its non-technical survey capacity if funding allows.⁷⁹

LAND RELEASE OUTPUTS AND PROGRESS TOWARDS COMPLETION

LAND RELEASE OUTPUTS IN 2020

None of the international operators released any cluster munition-contaminated area through survey in 2020 or in 2019.⁸⁰ However, a total of 3.15km² of previously unrecorded CMR contamination was discovered and added to the database in 2020.

The HALO Trust cleared 16,527m² of CMR-contaminated area in the village of Svatove in Svativskiyi district, destroying one submunition and fifty-two items of UXO. The clearance task was at the site of an ammunition storage facility explosion in 2015 and not a result of bombing.⁸¹ This is a decrease from 2019 where HALO cleared 68,000m² of CMR-contaminated area destroying in the process two submunitions.⁸² In addition, in 2020, one submunition was reported to HALO Trust in a spot task and subsequently removed by the Ukrainian authorities.⁸³ HALO also discovered 1.16km² of previously unrecorded CMR-contaminated area during non-technical survey.⁸⁴

In addition, SESU personnel conducted 14,166 tasks in 2020, during which 49.39km² of land was surveyed and cleared and 73,375 items of ERW were reportedly destroyed across Ukraine. Of these tasks, 4,147 were conducted in Donetsk and Lugansk districts alone, where 22.82km² of land was surveyed and cleared and 25,213 items of ERW destroyed.⁸⁵ As at June 2021, SESU had the capacity to conduct technical survey, battle area clearance (BAC), manual mine clearance,

and spot tasks and was in the process of improving its non-technical survey SOPs. The ERW numbers reported by SESU almost certainly include ERWs destroyed in EOD call-outs, some of which date back to the Second and even the First World War.⁸⁶ It is not known how many of the destroyed ERW were CMR.

Within the scope of its capacity-building project, DRC reported that six SESU demining teams cancelled 653,226m² through non-technical survey, and cleared 109,298m² of explosive ordnance (EO) contaminated land, destroying in the process 467 items of UXO. The teams were trained, equipped, and supervised by DRC. Clearance and survey operations were conducted in accord with IMAS.⁸⁷ The clearance figures (not survey) reported by DRC are included in these reported by SESU. It is not known how many of the destroyed ERWs were CMR.

DRC and FSD did not conduct any CMR clearance in 2020 or 2019.⁸⁸ DRC did, however, discover 1.99km² of previously unrecorded cluster munition-contaminated area in 2020.⁸⁹

In 2020, the DRC cleared 58,298m² of area that was suspected to contain UXO, destroying two items of UXO in the process.⁹⁰ FSD also cleared 5,949m² in a BAC task in Stara Mykolivka village, destroying 98 items of UXO in the process.⁹¹

Table 2: CMR clearance in 2020⁹²

District	Village	Operator	Area cleared (m ²)	Submunitions destroyed	Other UXO destroyed
Svativskiyi	Svatove	HALO Trust	16,527	1	52
Totals			16,527	1	52

PROGRESS TOWARDS COMPLETION

No target date has been set for the completion of CMR clearance in Ukraine. Although it is understood that, in addition to clearance conducted by operators, some clearance of CMR contamination has been undertaken by the MoD and the SESU. The extent is unclear as that information has not been made available by the national authorities.⁹³

Access to CMR contamination is a problem in certain areas either because of security concerns or because of their proximity to active military sites.⁹⁴ In addition, Ukraine has not had full control over parts of its territory with suspected CMR contamination since conflict erupted in 2014.

Russia has obligations under international human rights law to clear CMR as soon as possible, in particular by virtue of its duty to protect the right to life of every person under its jurisdiction, in any areas of Ukraine over which it exercises effective control.

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- 2 Interview with Lt.-Col. Yevhenii Zubarevskiy, Mine Action Department, Ministry of Defence (MoD), in Geneva, 20 May 2016.
- 3 "Measures to ensure compliance", presentation by Col. Viktor Kuzmin, Deputy Chief, Engineer Troops, Armed Forces of Ukraine, provided to the APMBC Implementation Support Unit at the APMBC Intersessional Meetings, Geneva, 9 June 2017, at: <http://bit.ly/2EoMS2u>; 2020 APMBC Article 5 deadline Extension Request, p. 1.
- 4 Interview with Maksym Komisarov, Chief of Mine Action Department, MoD, in Geneva, 8 June 2018.
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- 13 See, e.g., "During a Year in Kerch and Sevastopol neutralized 33 thousands of munitions", Forum, 4 December 2009.
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- 15 Email from Lt.-Col. Yevhenii Zubarevskiy, MoD, 27 June 2017.
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