

Lithuania's withdrawal from the Convention on Cluster Munitions: What you need to know

18 July 2024

On 18 July 2024, the Parliament of Lithuania voted to confirm the government's decision to withdraw from the Convention on Cluster Munitions (CCM). Ahead of the vote, the Lithuanian Defence Minister, Laurynas Kasčiūnas, said that "it would be very wrong for a country, when preparing for its defence, to immediately say what capacity it would not use for its defence". If the decision to leave the CCM is confirmed in an instrument of withdrawal sent to the depositary (the Secretary-General of the United Nations), this will be the first time that any State has withdrawn from a humanitarian disarmament treaty.

What are cluster munitions?

Cluster munitions comprise containers with tens and sometimes a few hundred small bombs (submunitions), which can be fired from artillery or dropped from aircraft. Some submunitions are designed to kill soldiers while others can also destroy or damage tanks. Besides the killings that occur when they land, many submunitions fail to explode on impact and remain dangerous for children and other civilians for decades afterwards.

Why are they banned?

According to the Cluster Munitions Monitor, 95 per cent of those killed by cluster munitions in 2022 were civilians, of which 71 per cent were children. At least 23 States were affected by unexploded submunitions as of July 2024, some dating back to the late 1960s.¹ The unacceptable humanitarian harm caused by cluster munitions led to the adoption of the CCM at a diplomatic conference in 2008 and its entry into force at the beginning of August 2010.² As of 1 July 2024, 112 States were party to the CCM and a further 12 were signatories. No State Party has ever before left the CCM.

The procedure for withdrawal from the CCM

Article 20 of the CCM allows each State Party the right to withdraw from the Convention. In order to do so, it must follow procedural requirements. A State Party must inform all the other States Parties, the depositary, and the UN Security Council of the withdrawal. The instrument of withdrawal it sends to the UN Secretary-General must include a "full explanation of the reasons motivating withdrawal".³

The withdrawal then takes effect six months after the Secretary-General receives that letter. If, however, the State Party is engaged in any armed conflict on the day the six-month notice period expires, the withdrawal does not take effect until that conflict ends. This covers both international armed conflict (i.e.

¹ *Cluster Munition Monitor Report 2023*, p. 42

² Convention on Cluster Munitions; adopted at Dublin, 30 May 2008; entered into force, 1 August 2010.

³ Art. 20(2), CCM.

between Lithuania and any other State) and non-international armed conflict (for instance, if Lithuania is involved in suppressing an insurgency anywhere).

The consequences for the CCM and disarmament law

Once Lithuania's withdrawal takes effect, it will be able lawfully to produce, import, export, and use cluster munitions in unrestricted numbers. However, any subsequent use of cluster munitions in armed conflict is still subject to international humanitarian law—particularly the rules of distinction, proportionality, and precautions in attack. Clearance of unexploded submunitions will still be required in accordance with Lithuania's obligations under Protocol V to the Convention on Certain Conventional Weapons (which deals with explosive remnants of war)⁴ and international human rights law. But the robustness of the global norm set by the CCM will undoubtedly be impacted by the withdrawal.

This will not be the first time that a State has withdrawn from a treaty governing weapons. In 2003, North Korea left the 1968 Nuclear Non-Proliferation Treaty (NPT) and subsequently acquired nuclear weapons. But this withdrawal by Lithuania is the first time any State has left one of the five global disarmament treaties (on biological weapons, chemical weapons, nuclear weapons, anti-personnel mines, and cluster munitions). It sends a worrying signal about the commitment of States to disarmament and international humanitarian law. Moreover, other States may become emboldened to use a weapon that has been internationally stigmatised because of its humanitarian consequences.

The consequences for the protection of civilians

At the time of writing, a total of 24 NATO member States, including Lithuania, are party to the CCM. States not party include the two other Baltic States—Estonia and Latvia—as well as Finland, Poland, and Romania.⁵ In 2023, the United States began transferring millions of cluster munitions from its own, ageing, stockpiles to Ukraine, which has been using them widely against Russian troops. Four other NATO members either produce or could produce cluster munitions according to civil society experts: Greece, Poland, Romania, and Türkiye.⁶ Lithuania may seek to procure cluster munitions from these States, the US, or from the other 15 reported producers.⁷

It is not known whether other States Parties to the CCM, including other NATO members, will decide to follow Lithuania's example and leave. Meanwhile, use of cluster munitions by States not party to the CCM has continued to occur in both international armed conflict (e.g. Armenia v. Azerbaijan in 2020; Russia v. Ukraine since late February 2022) and non-international armed conflict (e.g. Myanmar in 2023–24, Syria, and by Saudi Arabia in Yemen until 2015). The consequences for civilians are the significant numbers of deaths and serious injuries that occur long after the fighting has stopped.

Conclusion

Lithuania's departure from the CCM is in no way fatal to the Convention, nor does it *per se* result in a reduction in the protection of civilians more generally. But it sets a deeply problematic precedent that could lead to other States Parties following Lithuania out of the CCM and potentially out of other disarmament treaties as well. The reason for the creation of the CCM remains as relevant as ever, and sooner or later civilians will pay the price if this is not a one-off but the start of a new trend.

⁴ Arts. 3–5, Protocol on Explosive Remnants of War to the Convention on Certain Conventional Weapons (Protocol V); adopted at Geneva, 28 November 2003; entered into force, 12 November 2006. Lithuania adhered to the Convention in 2004.

⁵ The other three States are Greece, Türkiye, and the United States.

⁶ *Cluster Munition Monitor Report 2023*, p. 18.

⁷ The other producers are Brazil, China, Egypt, India, Iran, Israel, North Korea, South Korea, Pakistan, Russia, and Singapore. *Ibid.*