

**SECOND CONFERENCE OF THE HIGH
CONTRACTING PARTIES TO PROTOCOL V
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**

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**Review of the status and operation of
the Protocol**

REPORT ON VICTIM ASSISTANCE

Submitted by the Coordinator¹ on Victim Assistance under CCW Protocol V

1. The issue of victim assistance has formed an important part of the work under CCW Protocol V and, in particular, of the Meeting of Experts' work program. This was made possible thanks to the active and constructive engagement of all delegations, including those from High Contracting Parties, observers, international organizations, the ICRC and the NGO community in making progress to appropriately assist the victims of explosive remnants of war.
2. In preparing for the Meeting of Experts as well as for the Second Conference, the coordinator undertook a series of initiatives:
 - (i) In order to get a better view of the situations with regards to victim assistance, a questionnaire on victim assistance was elaborated and circulated. The questionnaire was aimed at providing an overview of the magnitude of the problem in the various States as well as of the steps the States undertake to improve the situation of the ERW-victims. The questionnaire is a useful tool for sharing experience and information; establishing a common knowledge bank; and identifying the challenges for the implementation of Article 8, paragraph 2 of Protocol V, as well as the best possible responses.
 - (ii) A lunch time seminar was organized on the various aspects of victim assistance and the experience gained in this field. The seminar benefited from the participation of a variety of actors active in the field, in particular: Prof. Ken Rutherford, an ERW victim and co-founder of Landmine Survivors Network; Mr. Kerry Brinkert, Director,

¹ In accordance with the relevant decision of the First Conference of the High Contracting Parties to Protocol V on Explosive Remnants of War, as contained in paragraph 40 (e) of its Final Document (CCW/P.V/CONF/2007/1) the discussion on victim assistance pursuant to Article 8 (2) of the Protocol was coordinated by Mr. Markus Reiterer of Austria, who - after leaving Geneva for his next assignment - was replaced by Mr. Michael Schoiswohl of Austria.

Implementation Support Unit of the Anti-Personnel Mine Ban Convention; Ms. Adriana Zarraluqui, Associate Human Rights Officer, Office of the High Commissioner for Human Rights; Mr. Peter Herby, Head of the Arms Unit, Legal Division, ICRC and Ms Rita Kazragiene, Mission of Lithuania, Geneva.

- (iii) A paper on the possible elements and common approaches to victim assistance was prepared by the coordinator and served as a basis for the discussion during the Meeting of Experts.
- (iv) Various consultations with individual delegations as well as two open-ended consultations were held in the course of the year.

3. The session on victim assistance of the Meeting of Experts focused on its main constituent areas: medical care; rehabilitation; as well as social and economic reintegration. The session as well as the consultations by the Coordinator revealed a high degree of engagement by the High Contracting Parties and their serious commitment to address the human suffering caused explosive remnants of war. They also showed a considerable degree of convergence concerning the main building blocks of and approaches to victim assistance.

4. Against this background, a Plan of Action on Victim Assistance was prepared by the coordinator and considered at a number of informal consultations with the States parties and several Observer States. A strong support in favor of the Plan of Action was expressed as well as the conviction that such an important step of considerable political visibility would allow moving forward by spelling out a common and practical approach to the matter. It will also strengthen significantly the humanitarian core of the Protocol. Based on the outcome of the informal consultations, the Plan of Action on Victim Assistance was further modified and could be approved by the States parties to the Protocol as a political platform for assisting the ERW victims.

5. Bearing in mind the fruitful discussions and the results of the work undertaken under Protocol V during the course of the year, the Coordinator recommends to the Second Conference of the High Contracting Parties to Protocol V to take the following decisions:

- (i) To continue the consideration of victim assistance in the context of the Meetings of Experts and the Conferences of the High Contracting Parties to Protocol V
- (ii) To invite all States parties, which have not yet done so, to respond to the questionnaire presented by the Coordinators, as contained in Annex I, in writing or orally during the next Meeting of Experts, in order to further improve the common knowledge basis and exchange experience on how best to address the problems of the ERW victims.
- (iii) To adopt the Plan of Action on Victim Assistance, as contained in Annex II, as a political tool for addressing in an effective way the problems of ERW victims.
- (iv) To consider the possibility and feasibility of relating the question of victim assistance also to victims of other weapons regulated by the CCW.

Annex I**QUESTIONNAIRE ON VICTIM ASSISTANCE UNDER PROTOCOL V****I. Introduction**

1. Under Article 8 paragraph 2 of Protocol V each High Contracting Party in a position to do so shall provide assistance for the care and rehabilitation and social and economic reintegration of ERW-victims.

2. In order to get a better view on the situations as regards victim assistance in various States, States Parties and observers are encouraged to reply to the following questions either in writing before the July meeting on Protocol V or orally during that meeting itself. The questions aim to give an overview of the magnitude of the problem in the various States as well as what States have done to improve the situation of ERW-victims. Some of the questions also relate to assistance and cooperation activities of various States in the field of victim assistance.

3. Written responses should be forwarded electronically to ccw@unog.ch,¹ or in hard copy to the following address: CCW Secretariat, Palais des Nations, office C-113.1, UNOG, Avenue de la Paix 8-14, 1211 Geneva 10.

II. Questions**(1) Crosscutting questions**

- (i) What is the estimated number of ERW survivors and other victims in your country? How does this figure relate to the overall population?
- (ii) Does your country receive foreign funding for mine and ERW action, and if so how much of it is spent for victim assistance activities?
- (iii) Is there a focal point in the government for victim assistance and what are the accountability measures?

(2) Medical care

- (i) Is emergency and ongoing medical care, including hospitals that can treat ERW related injuries, available in ERW affected areas. Is emergency transportation available? How are these services made available to ERW victims?
- (ii) Are prosthetic/orthotic services available, accessible and affordable for ERW victims? How are these services made available to ERW victims and for which duration?

¹ An electronic version of the questions is available at the CCW Protocol V Meeting of Experts webpage at: <http://www.unog.ch/disarmament>.

(3) Rehabilitation

- (i) Are rehabilitation centers available, accessible and affordable to ERW victims, in ERW affected areas, including in the rural areas? Is transportation ensured?
- (ii) Are rehabilitation services provided comprehensive and based on individual needs assessment, as well as long-term?

(4) Economic reintegration

- (i) What programs exist for income generation, including employment, micro-enterprise support, affirmative action programs, vocational trainings, and other relevant areas, for persons with disabilities in general and ERW victims specifically?
- (ii) What, if any, incentives are provided by the state to increase employment of ERW victims and persons with disabilities generally, including quotas, tax incentives, and does the state employ ERW victims and/or persons with disabilities, and how many?

(5) Laws and policies

- (i) Is there a national plan on victim assistance? How is coordination among relevant ministries, institutions and other relevant stakeholders carried out? Were ERW victims consulted?
- (ii) Is there a national plan on people with disabilities? Were people with disabilities consulted?
- (iii) Is there a comprehensive disability law, and if not, what laws exist that address relevant areas of victim assistance?
- (iv) If possible, please attach texts of relevant legislation.

(6) International Cooperation and Assistance

Does your country support international cooperation and assistance activities relating to victim assistance? If so, in which areas of victim assistance? What type of projects? If possible, please specify funding and funding requirements?

Annex II

PLAN OF ACTION ON VICTIM ASSISTANCE

Recalling the general principle of the protection of the civilian population against the effects of hostilities;

Confirming their determination that in cases not covered by this Convention and its annexed Protocols or by other international agreements, the civilian population and the combatants shall at all times remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience;

Recalling that pursuant to Article 8 paragraph 2 of Protocol V, “[E]ach High Contracting Party in a position to do so shall provide assistance for the care and rehabilitation and social and economic reintegration of victims of explosive remnants of war”;

Bearing in mind the Convention on the Rights of Persons with Disabilities which, *inter alia*, requires that States Parties to that Convention undertake to ensure and promote the full realisation of all human rights and fundamental freedoms of all persons with disabilities without discrimination of any kind on the basis of disability;

Recognizing the right of each High Contracting Party to seek and receive assistance in fulfilling its obligations with respect to Victim Assistance under the CCW and its Protocol 5; *Recognizing* in particular that States having a responsibility for victims will in many instances need support and cooperation by other countries, international organizations and institutions;

Mindful of the need to coordinate adequately efforts undertaken in various fora to address the rights and needs of victims of various types of weapons;
Resolved to do their utmost in providing age and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as providing for their social and economic inclusion to victims of explosive remnants of war;

Bearing in mind the principle of non-discrimination and *resolved* to avoid discrimination against or among victims of explosive remnants of war, or between such victims and other victims of armed conflict;

Mindful that explosive remnants of war may not only affect the persons directly impacted by them, but also their families and communities.

The High Contracting Parties

1. Have reached a common understanding on the following Plan of Action:

Action 1: With respect to victims of ERW in areas under its jurisdiction or control, each High Contracting Party, in accordance with applicable international humanitarian and human rights law and the principle of non-discrimination contained therein, should adequately provide

medical care, rehabilitation, psychological support and adequate assistance for social and economic inclusion.

Action 2: Each High Contracting Party should make every effort to collect reliable relevant data with respect to victims.

Action 3: Each High Contracting Party in a position to do so should provide cooperation and assistance for victim assistance. The High Contracting Parties *urge* all States as well as international organizations and institutions in a position to do so to cooperate and provide assistance;

Action 4: In implementing this Plan of Action each High Contracting Party should:

- (a) Assess the needs of victims;
- (b) Develop, implement and enforce any necessary national laws and policies;
- (c) Develop, in accordance with national procedures, a national plan and budget, including timeframes to carry out these activities, with a view to incorporating them within as well as supporting applicable national disability, development and human rights frameworks and mechanisms, while respecting the specific role and contribution of relevant actors;
- (d) Seek to mobilize national and international resources;
- (e) Ensure that differences in treatment are based only on medical, rehabilitative, psychological or socio-economic needs;
- (f) Closely consult with and actively involve victims and their representative organizations;
- (g) Designate, in accordance with national procedures, a focal point within the government for coordination of matters relating to the implementation of this Plan of Action; and
- (h) Strive to incorporate relevant guidelines and good practices including in the areas of medical care, rehabilitation and psychological support, as well as social and economic inclusion.

2. Decide to exchange regularly information on the operationalization and national implementation of this Plan of Action within existing mechanisms established by the CCW and Protocol V.

3. Decide to review regularly the implementation of this Plan of Action within existing mechanisms established by the CCW and Protocol V in order to assess progress and take appropriate decisions for further improving assistance for victims.
