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Challenging Ukraine’s Mine Ban Treaty “Suspension” A Humanitarian and Legal Imperative

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The 1997 Mine Ban Treaty, which aims to “end ... the suffering” inflicted by antipersonnel landmines, has advanced international law and saved countless lives.¹ It is a cornerstone of humanitarian disarmament, a people-centered approach to governing weapons that focuses on reducing arms-inflicted human suffering.² Its prohibitions on use, production, stockpiling, and transfer, as well as its requirements to destroy stockpiles, clear mined areas, and assist victims, have prevented civilian casualties and helped survivors.

The Mine Ban Treaty, however, has faced multiple threats since Russia’s full-scale invasion of Ukraine in February 2022. Russia has made extensive use of antipersonnel landmines, employing at least 13 types and causing hundreds of civilian deaths and injuries in Ukraine.³ Although Russia is not a state party to the treaty, its actions have violated the prohibition on the use of indiscriminate weapons under international humanitarian law and countered the norm prohibiting use of antipersonnel landmines. Ukraine, a state party to the Mine Ban Treaty, is also investigating reports that its own forces used rocket-delivered PFM antipersonnel mines in and around Izium in

¹ Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Mine Ban Treaty), adopted September 18, 1997, entered into force March 1, 1999, pmb., para. 1.

² Bonnie Docherty, “A ‘Light for All Humanity’: The Treaty on the Prohibition of Nuclear Weapons and the Progress of Humanitarian Disarmament,” *Global Change, Peace and Security*, 30:2 (2018), p. 163.

³ International Campaign to Ban Landmines (ICBL), *Landmine Monitor 2024*, November 2024, <https://www.the-monitor.org/api/assets/reports/Landmine-Monitors/LMM2024/Downloads/Landmine-Monitor-2024-Final-Web.pdf> (accessed September 19, 2025), p. 8, 43, 13. Russia is the largest user of landmines in Ukraine, and in 2023 alone, landmine use in Ukraine caused 580 casualties.

2022 when Russian forces occupied the city.⁴ In addition, five states parties—the Baltic states, Finland, and Poland—withdrawed from the Mine Ban Treaty in 2025, contending their security situations had changed due to the conflict in Ukraine.⁵

This paper will examine the most recent threat to the treaty: Ukraine’s claim to have “suspended” its obligations under the Mine Ban Treaty. It will demonstrate that suspensions during armed conflict are unlawful under the Mine Ban Treaty on multiple grounds, including the applicability of the treaty’s obligations “under any circumstances.” The paper will then explain why Ukraine’s reliance on the “fundamental change in circumstances” provision of the Vienna Convention on the Law of Treaties (Vienna Convention) falls short.⁶ Indeed, the provision of the Vienna Convention that Ukraine invokes, Article 62, does not apply to situations of armed conflict. Finally, the paper highlights that Ukraine’s suspension has grave humanitarian and legal consequences. The paper calls on states parties to actively challenge Ukraine’s suspension in the coming months and to build support for formal confirmation, by means of a declaration or other clarification, that suspensions are not permissible under the Mine Ban Treaty, at the treaty’s 22nd Meeting of States Parties in December 2025.

Ukraine’s Justifications

Ukraine’s declaration of suspension to the United Nations secretary-general as the depositary of the Mine Ban Treaty is quite short. The communication, signed July 21, 2025, simply states:

In accordance with the provisions of the Vienna Convention on the Law of Treaties of 1969, Ukraine has decided, as of July 17, 2025, to suspend the operation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction.⁷

⁴ Ibid. p. 8; “Ukraine: Landmines Harm Civilians,” Human Rights Watch news release, January 31, 2023, <https://www.hrw.org/news/2023/01/31/ukraine-banned-landmines-harm-civilians>.

⁵ Anti-Personnel Mine Ban Convention, “Convention President Statement Regarding States Parties’ Withdrawal,” June 28, 2025, <https://www.apminebanconvention.org/en/news/article/statement> (accessed September 19, 2025); International Campaign to Ban Landmines, “Civilians Will Pay the Heavy Price of Poland’s Withdrawal from the Mine Ban Treaty, Warns Nobel Peace Prize Laureate,” August 27, 2025, <https://icblcmc.org/our-impact/civilians-will-pay-the-heavy-price-of-polands-withdrawal-from-the-mine-ban-treaty-warns-nobel-peace-prize-laureate> (accessed September 19, 2025).

⁶ Vienna Convention on the Law of Treaties, adopted on May 23, 1969, entered into force on January 27, 1980. Ukraine acceded to the convention on May 14, 1986, and remained a party after becoming an independent state in 1991.

⁷ Ukraine: Communication, Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, Reference: C.N.385.2025.TREATIES-XXVI.5, July 21, 2025.

A draft national implementation law, tabled in July 2025, elaborates on the intent and reasoning behind Ukraine’s action. The bill explains that Ukraine plans to suspend its obligations under the Mine Ban Treaty until the end of its war with Russia and provides a long list of criteria for determining when that could occur. The bill also offers a justification for suspension, although, as will be discussed below, its arguments are flawed on several grounds.⁸

The Mine Ban Treaty explicitly permits a withdrawal by a state party but makes no mention of suspensions. Article 20 of the treaty allows states parties to withdraw so long as they provide notice and “full explanation of the reasons motivating this withdrawal.” Ukraine contends that while the Mine Ban Treaty is silent on the topic, it should nonetheless be interpreted to allow suspensions in accordance with the Vienna Convention.⁹

Given that the Mine Ban Treaty does not refer to the possibility of suspension, Ukraine’s draft law follows the Vienna Convention’s rules.¹⁰ Article 62 of the Vienna Convention generally permits suspension or withdrawal if a state faces a “fundamental change of circumstances.” Ukraine asserts that when it joined the Mine Ban Treaty, it relied on the Budapest Memorandum of 1994, a set of security assurances in which Russia, the United Kingdom, and the United States committed not to use force against Ukraine.¹¹ Ukraine claims that it therefore could not foresee a conflict with Russia and that the invasion altered an “essential basis of [Ukraine’s] consent” to be bound by the Mine Ban Treaty.¹² Such a change, its draft law contends, entitled it to submit either a withdrawal or a suspension.¹³

Mine Ban Treaty’s Prohibition of Suspensions

Ukraine is engaged in an armed conflict initiated by Russia’s full-scale invasion of its territory and followed by the commission of widespread violations of international humanitarian law. This context, however, does not permit Ukraine to suspend its obligations under a humanitarian treaty when they are needed most. Ukraine’s arguments for suspension under both the Mine Ban Treaty

⁸ Draft Law of Ukraine: “On the Suspension for Ukraine of the Operation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction” (Draft Law), July 11, 2025 (unofficial translation).

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Vienna Convention, art. 61(1)(a).

¹³ Draft Law; Vienna Convention, art. 61(3).

and the Vienna Convention are legally flawed. The Mine Ban Treaty’s silence on the issue does not mean that temporarily waiving obligations is allowed. By contrast, suspensions are unlawful under the Mine Ban Treaty, notably during armed conflict.

The Mine Ban Treaty is clearly intended to apply during armed conflict. It prohibits use, production, stockpiling, and transfer of antipersonnel landmines “under any circumstances,” which includes times of armed conflict as well as peacetime. The wording is taken verbatim from the 1992 Chemical Weapons Convention and has an established meaning in international law.¹⁴ Article 20 of the Mine Ban Treaty does not allow withdrawals to take effect during an armed conflict. Furthermore, the preamble bases the treaty “on the principle of international humanitarian law that the right of the parties to an armed conflict to choose methods or means of warfare is not unlimited.” The Mine Ban Treaty prohibits all reservations to its provisions and thus does not allow for unilateral exceptions to compliance with its obligations during armed conflict or as the result of an act of aggression.¹⁵

Ukraine was well aware at the time of its signature and ratification that it was consenting to be bound by a treaty without the possibility of reservations and that the treaty applies to all armed conflicts, regardless of who started them, when they occurred, or the nature or gravity of the conflicts. Seeking to temporarily avoid its obligations at a time when they are most critical is contrary to both the treaty’s operative provisions and its humanitarian object and purpose.

Flaws in the “Fundamental Change of Circumstances” Argument

Ukraine’s argument that it is facing a “fundamental change of circumstances” under the Vienna Convention also falls short. As the context for its suspension, Ukraine notes that Russia has violated the Budapest Memorandum and emphasizes that Russia’s full-scale invasion is a conflict of unprecedented proportion.¹⁶ The Mine Ban Treaty’s prohibitions, however, explicitly apply “under any circumstances,” including any armed conflict, and those circumstances do not depend on the details of a state party’s specific situation. When Ukraine joined the Mine Ban Treaty, it may not have envisioned a conflict of the character and scale it is engaged in now. Nevertheless, it could have foreseen that it would engage in some kind of armed conflict in its future, regardless with what party and of what nature, and with that knowledge it consented to be bound by the Mine

¹⁴ Chemical Weapons Convention, adopted September 3, 1992, entered into force April 29, 1997, art. 1(1).

¹⁵ Mine Ban Treaty, arts. 1; 20; pmb., paras. 10 and 19.

¹⁶ Draft Law.

Ban Treaty's provisions. Therefore, its engagement in hostilities at this stage does not constitute a "fundamental change of circumstances" under international law. Instead, it constitutes the kind of circumstance, foreseen by the Mine Ban Treaty, when it is most needed and relevant.

A key analogy that Ukraine relies on as precedent for its case is not pertinent. It compares its situation to that of the five European Union states parties that withdrew from the Mine Ban Treaty in 2025.¹⁷ Those states similarly argued Russia's invasion of Ukraine led to a fundamental change of their security situations. They are not currently involved in armed conflict, however, and are not seeking to "suspend" their obligations. While the withdrawals of those states parties are deeply disturbing because they reflect a retreat from the norms of the Mine Ban Treaty, their cases can be distinguished in their legality from that of Ukraine.

Furthermore, the "fundamental change of circumstances" provision in the Vienna Convention does not apply during armed conflict. Article 73 establishes that the convention does not alter states' international responsibilities under a specific treaty with armed conflict-related obligations if there is an "outbreak of hostilities between States."¹⁸ According to an authoritative commentary on the Vienna Convention, Article 73 creates an exception to Article 62's change of circumstances provision during "the outbreak of hostilities between States." Specifically discussing Article 62 and its rules on fundamental changes of circumstances, the commentary says:

There are three exceptions to the foregoing [rules on Article 62]: one is the *outbreak of hostilities*, which would otherwise provide an excellent example of a fundamental change of circumstances, and has historically been used as such, but according to Art[icle] 73 is *not covered by the Convention* (emphasis added).¹⁹

¹⁷ Ibid.

¹⁸ Vienna Convention, art. 73.

¹⁹ "Article 62: Fundamental Change of Circumstances," para. 37, in *Vienna Convention on the Law of Treaties: A Commentary*, Oliver Dörr and Kirsten Schmalenbach, eds. (Berlin: Springer, 2018)). See also "Article 73: Cases of State succession, State responsibility and outbreak of hostilities," in *ibid.*, paras. 49-53 (explaining that treaties that include regulations related to armed conflict continue to apply during armed conflict).

Effects of Suspending the Mine Ban Treaty

Ukraine's unlawful suspension of its obligations under the Mine Ban Treaty is problematic on humanitarian and legal grounds. First, it gives Ukraine a justification, albeit a flawed one, to use antipersonnel landmines causing foreseeable long-term harm including to its own civilians. Russia has made widespread use of these mines in Ukraine since the start of its full-scale invasion. If Ukraine uses antipersonnel landmines more frequently than has already been documented, it will increase the risk to its civilians in the immediate future and for decades to come and leave an even greater legacy of minefields to clear, an expensive and dangerous task.

Second, Ukraine's actions set a damaging precedent for Mine Ban Treaty states parties. Five states parties have already withdrawn in the past year. If the unlawful suspension is tolerated in this case, it could encourage other states parties to withdraw from or similarly suspend their obligations under the treaty in the midst of armed conflict, further weakening its norms and undermining its object and purpose.

Finally, allowing suspension from treaties specifically intended to protect civilians during armed conflict could have profound negative effects on international law more broadly. It could weaken norms of both disarmament law and international humanitarian law, which are designed in large part to protect civilians from the means and methods of warfare. International Committee of the Red Cross President Mirjana Spoljaric said in July 2024:

International Humanitarian Law is not made for the hopeful days of peacetime. It is made for humanity's darkest days, when armed conflict rages and people are in grave danger. It is essential that states do not take the route of pulling away from the treaties and conventions ... that keep vulnerable people safe and mitigate the horrors of war.²⁰

It is therefore crucial for states to comply with the international obligations they voluntarily accepted when difficult times arise, including situations of armed conflict.

²⁰ International Committee of the Red Cross, "In Times of Insecurity and Conflict, States Must Work Together to Uphold and Strengthen International Humanitarian Law," July 17, 2024, <https://www.icrc.org/en/news-release/times-insecurity-and-conflict-states-must-work-together> (accessed September 19, 2025).

Recommendations

To protect both the Mine Ban Treaty and fundamental international legal norms and to prevent further harm from antipersonnel mines, Mine Ban Treaty states parties should:

- Urge Ukraine to retract its effort to suspend its obligations under the Mine Ban Treaty, for the reasons enumerated above, at the treaty's Coordinating Committee meetings, its 22nd Meeting of States Parties and its preparatory meetings, as well as at the UN General Assembly's First Committee on Disarmament and International Security and other relevant forums.
- Individually or collectively submit notifications by October 17, 2025, to the UN secretary-general in accordance with the provisions of Vienna Convention Article 65(2), objecting to Ukraine's suspension based on the Vienna Convention.
- Promote before and adopt at the Mine Ban Treaty's 22nd Meeting of States Parties a declaration or clarification that suspension of the convention is not permissible under the treaty.