

Consultations on EWIPA Elements Paper, 10 February 2020

Concerning the document containing elements for a possible political declaration on the humanitarian impact of the use of explosive weapons in inhabited areas Portugal highlights those points that are especially relevant (and positive), namely in terms of respect for International Humanitarian Law (IHL) and International Human Rights Law (IHRD) applicable to the use of explosive weapons in inhabited areas:

- The various references to the continuous and excessive negative impact of urban warfare, carried out with means and methods that are not consistent with the respect for the fundamental principles of IHL - in particular the principle of humanity, the principle of discrimination, the principle of proportionality and the principle of the prohibition of excessive suffering – and the norms also applicable within the framework of the IACHR. In fact, the use of such weapons in the context of urban warfare has very worrying consequences, threatening not only the life and physical integrity of non-combatants, but also the integrity and use of goods (infrastructure, equipment and services) strictly civilians, compromising in a very permanent way the “return to normality” of the populations that inhabit the affected urban areas;
- Recognition to the United Nations, the ICRC and civil society for their work in raising awareness of the humanitarian consequences of the use of such weapons (point 1.5.);
- The entire section 2 (“Legal framework”), that is, the reaffirmation that the current IHL contains the international legal framework applicable to the conduct of armed conflicts, being applicable to the use of explosive weapons with large-scale effects in housing areas (point 2.1.) and the reiteration of the obligations of all parties to an armed conflict to respect IHL in conducting hostilities in inhabited areas (point 2.3);
- The request made in point 4.4 for no obstacle to humanitarian aid operations - so often hampered by obstacles that the belligerents place in the access of humanitarian actors to the populations or even by restrictive measures (“sanctions”). In fact, Portugal would suggest that the conversion of this element in the declaration should be complemented with an express

reference to the obligation of IHL not to impede this humanitarian access, not only from the point of view of the belligerents' obligations regarding the well-being of the civilian population under their control, but also in relation to the ICRC's action, which has a mandate for humanitarian action enshrined in the Geneva Conventions.