

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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FRANCE: CALL FOR SUSPENDING THE USE OF RUBBER BULLETS FIRED WITH THE LBD40 AND FOR BANNING GRENADES GLI-F4 IN THE CONTEXT OF POLICING PROTESTS

According to official statistics, since the beginning of the cycle of protests of the so-called “Yellow Vests” in November 2018, more than 2,200 protesters and 1,500 law enforcement officials have suffered injuries in the context of demonstrations. In March 2019, the IGPN (Inspection Générale de la Police Nationale) and IGGN (Inspection Générale de la Gendarmerie Nationale), the mechanisms tasked to investigate excessive use of force by police officers and gendarmes respectively, were dealing with 83 complaints¹ filed by protesters who had suffered injuries allegedly due to the use by law enforcement officials of kinetic impact projectiles (or rubber bullets, which are fired with the *Lanceur des balles de défense* LBD 40).²

Non-official sources estimate that the numbers of protesters who suffered injuries caused by rubber bullets is higher. According to data collected by the journalist David Dufresne for instance, more than one third (282) of the 753 cases of injuries suffered by protesters were allegedly caused by rubber bullets³. In thirty-two cases, the injuries were allegedly caused by the tear gas grenade GLI-F4. In particular, 23 individuals have lost the sight of one eye allegedly after having been hit by a rubber bullet and 5 people have lost the use of one of their hands allegedly because of tear gas grenades GLI-F4.⁴ In December 2018, Amnesty International documented cases of excessive use of force by law enforcement agents resulting in protesters suffering injuries, including as a result of being hit by rubber bullets.⁵

THE USE OF RUBBER BULLETS

Kinetic impact projectiles can cause serious injuries, especially if the point of impact is the head, face or upper torso. In order to comply with the principles of necessity and proportionality, and more generally with respect for the right to life and personal integrity, law enforcement officials must not use kinetic impact projectiles as a general tool to disperse a crowd but only to stop individuals engaged in violence against persons. They should be used only in situations where it is feasible to target such individuals specifically and must not be fired into the crowd or as random shots. They must never be skip-fired (that is, bounced off the ground) as this makes them highly inaccurate and they should be aimed only at the lower parts of the body so as to minimize injuries.⁶

Under French law, the use of force, including by using certain weapons, is permissible to disperse a public assembly that is likely to constitute a threat to public order (*attroupement*, Article 431.3-3 of the Criminal Code). In such cases, law enforcement officials can use force only when it is strictly necessary to protect public order and when it is used in a way

¹ <http://www.senat.fr/seances/s201903/s20190307/s20190307.pdf>

² The LBD40 is produced by the Swiss manufacturer Brügger & Thomet under the name GL06, <https://i.pinimg.com/originals/5a/0d/a4/5a0da415b3d94201e1ebfa434895d573.jpg>

³ <https://www.mediapart.fr/studio/panoramique/allo-place-beauvau-cest-pour-un-bilan>

⁴ <https://alloplacebeauvau.mediapart.fr/>

⁵ <https://www.amnesty.org/en/latest/news/2018/12/police-must-end-use-of-excessive-force-against-protesters-and-high-school-children-in-france/>

⁶ Amnesty International, Use of Force: Guidelines for implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Section 7.4.2.

http://www.amnestyusa.org/sites/default/files/amnesty_international_guidelines_on_use_of_force-2.pdf

that is proportionate to the threat to public order to be addressed. The use of force is permissible only after two warnings, unless law enforcement agents are targeted with violence by protesters or cannot defend their position.

In the context of a public assembly that is likely to constitute a threat to public order, when law enforcement officials are the targets of violence or cannot defend their position, they can also use other weapons including kinetic impact projectiles (LBD40) without giving a warning (Articles L211-9 and D211-19 of the Law on National Security).

Further guidelines on the use of specific weapons are included in instructions issued by the directors of the police and the gendarmerie, published in 2014. In particular, law enforcement officials are permitted to use kinetic impact projectiles only if they hold a permit, obtained through training, and after authorization from their superiors. Kinetic impact projectiles fired with the LBD40 launcher should be fired only at the chest or limbs of the target and not at the head. Before firing, law enforcement officials should carefully evaluate the context to ascertain, as far as possible, that no one else could be hit and that they are not targeting a vulnerable person (for example, someone who is injured, pregnant or has a disability). The instructions are not prescriptive with regards to the distance from the target at which kinetic impact projectiles should be fired. The guidelines highlight that they are more likely to cause injury if fired at less than 10m but do not prescribe a required minimum safety distance.

The French Ombudsperson (*Défenseur des droits*) has raised concerns regarding the use of kinetic impact projectiles fired with the LBD40 in the context of policing protests. In January 2019, he stated that one third of the complaints that he received for excessive use of force by law enforcement officials against protesters who had attended the public assemblies of the Yellow Vests involved injuries caused by rubber bullets fired with the LBD40. He observed that the use of rubber bullets fired with the LBD40 in the context of demonstrations is problematic because of the inability of law enforcement officials to estimate the firing distance from the target and the difficulties to ensure that the individuals targeted will effectively be those hit by the bullets.⁷ In December 2017, the Ombudsperson had called for the ban of the LBD40 in the context of policing demonstrations.⁸ In February 2019, the Council of Europe Commissioner for Human Rights likewise called the Ministry of Interior to suspend the use of the LBD40.⁹

In some instances, the danger posed by the LBD40 to the physical integrity of protesters stems from its misuse by law enforcement officials. As mentioned earlier, one problem may be associated with the lack of a mandatory safety distance at which rubber bullets should be fired with the LBD40. The Ombudsperson highlighted that another problem may rest with the use of this weapon by law enforcement units that were not specifically trained to police public assemblies. The Ombudsperson emphasized that he had dealt with several cases where protesters suffered injuries due to the misuse of the LBD40 by law enforcement officials. In particular, the policing of demonstrations by units including the BAC (*Brigades anti-Criminalité*) and the CSI (*Compagnies de Sécurisation et d'Intervention*), who are not specifically trained to police demonstrations, may be associated with further risks of protesters to suffer injuries as a result of an arbitrary or disproportionate use of weapons, including the LBD40. According to official statistics, around 85% of the 13,460 rubber bullets used in the context of the protests of the Yellow Vests were indeed fired by law enforcement units who were not trained to police demonstrations.¹⁰

In February 2019, the manufacturer of the LBD40, Brügger & Thomet stated that the main risks associated with the use of the LBD40 rested with the type of ammunition used in France, which were produced by another manufacturer, rather than with the weapon itself.¹¹ According to media reports, a representative of the police trade union UNSA argued that the rubber bullets in use by French law enforcement officials, in particular the short-range type of rubber bullet (MDU, *munition universelle de défense*), may be associated with an increased risk of injuries.¹²

THE USE OF TEARGAS EXPLOSIVE GRENADES (GLI-F4)

⁷ https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=18403

⁸ <http://www.assemblee-nationale.fr/presidence/Rapport-MO-09-01-18.pdf>

⁹ <https://rm.coe.int/memorandum-sur-le-maintien-de-l-ordre-et-la-liberte-de-reunion-dans-le/1680931add>

¹⁰ <http://www.senat.fr/seances/s201903/s20190307/s20190307.pdf>, p. 36

¹¹ https://www.swissinfo.ch/eng/yellow-vest-protests_swiss-firm-defends-riot-control-weapons-after-french-injuries/44712270

¹² <https://www.mediapart.fr/journal/france/160319/gilets-jaunes-blesses-l-arsenal-policier-en-accusation>

Chemical irritants used in public order situations, including those delivered by hand thrown grenades or weapon launched projectiles by their very nature have an indiscriminate effect with a high probability of affecting not only those individuals who are engaged in violence, but also bystanders and peaceful demonstrators. There is furthermore a high potential for use in an arbitrary manner. It must therefore be very clear that grenades and wide-area use of chemical irritants may only be used for the purpose of dispersal and only when the level of violence has reached such a degree that law enforcement officials cannot contain the threat by directly targeting violent persons only. – The purpose of their use must be to disperse the crowd, they may therefore only be used in areas where people have the opportunity to disperse and not in confined spaces or where exit ways are blocked or restricted. Clearly audible warnings must be issued prior to their use, and people must be allowed sufficient time to leave the area.¹³

French law sets out the specific categories of weapons that can be used by law enforcement agents to disperse a public assembly that is likely to constitute a threat to public order. They can use sting-ball and tear-gas grenades GLI-F4 after giving two warnings to protesters (Article D211-17 of the Law on National Security).

Teargas grenades GLI-F4 (produced by S.A.E Alsetex) contain teargas and TNT explosive and has a combined blast and deafening effect, measured at 165db when they explode at a distance of 5 metres. They can be launched manually or fired with a launcher. In 2014, the Minister of Interior amended the rules concerning the use of the grenade GLI-F4. In particular, the grenade GLI-F4 should be used by law enforcement officials in pairs in view of improving the assessment of the situation on the ground and of the risks associated with the use of the weapon. At the same time, the Minister banned the use of another type of grenade, which also contained TNT explosive (grenade OF F1), for policing public assemblies, in the aftermath of the death of a peaceful protester, Rémi Fraisse, after having been hit by this type of grenade.¹⁴ In June 2018, media reports indicated that the Minister of Interior had decided to not replenish the stock of grenades GLI-F4, which however would continue to be used for policing demonstration until the exhaustion of the current stock.¹⁵

The risks associated with the use of the tear gas grenade GLI-F4 are due to the multiple purposes of the weapon. In particular, the purpose of dispersing protesters, for which this weapon is being used, is at odds with the blast effect that it produces and which may prevent protesters from promptly dispersing. In 2017, the Ombudsperson emphasized that the use of the tear gas grenade GLI-F4 for policing demonstrations remained problematic in view of its hazardous materials that it contained.¹⁶

AMNESTY INTERNATIONAL RECOMMENDATIONS

REGARDING THE USE OF RUBBER BULLETS AND THE LBD40

In 2017, in the context of the social movement contesting the reform of Labour Law Amnesty International has called on the French authorities to ensure that kinetic impact projectiles are used only in instances where they are necessary to prevent violence against persons. The use of those weapons for dispersing a public assembly that is likely to constitute a threat to public order (*attroupement*) in instances where law enforcement officials cannot defend their position is likely to be at odds with the principles of necessity and proportionality unless defending the position is associated with another compelling law enforcement purpose such as preventing or stopping violence against persons.¹⁷ The organization had also called on the Minister of Interior to prohibit the use of sting-ball grenades in public order situations.

In order for the use of rubber bullets in public order situations to comply with the principles of necessity and proportionality, they must be used only to prevent or stop violence against persons. However, in instances where doubts arise regarding their technical precisions, where their use is not subject to mandatory rules aimed to minimise the risk of causing injuries and where they are used by law enforcement officials without adequate training, their use must be suspended so that a thorough evaluation of their precision and accuracy can be carried out, mandatory rules are adopted

¹³ Amnesty International, Use of Force, Section 7.4.2.

¹⁴ <https://www.interieur.gouv.fr/Archives/Archives-des-actualites/2014-Actualites/Sivens-rapport-de-l-IGPN-et-de-l-IGGN>

¹⁵ https://www.liberation.fr/france/2018/06/01/la-dangereuse-grenade-gli-f4-en-voie-de-disparition_1655881

¹⁶ https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=18403

¹⁷ See: Amnesty International. A right not a threat: disproportionate restrictions on demonstrations under the state of emergency in France, 31 May 2017. <https://www.amnesty.org/en/documents/eur21/6104/2017/en/>

and adequate training is provided. In the past Amnesty International has called on authorities to suspend the use of rubber bullets in instances where their technical characteristics made them imprecise and their use in public order situations resulted in peaceful protesters suffering serious injuries. For example, In May 2018 Amnesty International called on the Spanish Ministry of Interior to suspend the use of a specific type of rubber bullets found to be highly inaccurate and harmful.¹⁸

In view of the number of protesters who suffered serious injuries allegedly due to rubber bullets fired with the LBD40, the lack of clarity regarding the precision of the weapon and the lack of specific training for some law enforcement units tasked to police demonstrations, Amnesty International calls on the French Minister of Interior to suspend the use of the LBD40 until authorities have carried out an independent (from the manufacturer and the security forces using the weapon) and thorough evaluation of the accuracy and precision in view of the concrete ammunition used as well as the type of technology used for correctly aiming the weapon. Furthermore, in light of this evaluation, regulations, instructions and training would also need to be thoroughly reviewed in order to better prevent any use that can cause serious injury.

REGARDING THE INSTANT TEARGAS GRENADE GLI-F4

Amnesty International calls on the Minister of Interior to ban the use of the tear-gas grenade GLI-F4 for public order situations. This is not to say that chemical irritants must be banned overall for the purpose of policing demonstrations; law enforcement officials can continue to use chemical irritants according to the international human rights mentioned above, more specifically for dispersing public assemblies that have reached a level of violence that cannot be contained by directly targeting only violent protesters. However, the combined effects of the GLI F40 are much more likely to cause serious injury as has been sadly demonstrated by the numerous victims mentioned above. Moreover, the different effects of the weapon are neutralizing each other – the tear gas should lead people to disperse while the effects of the explosive and the blasts they produce will rather make people unable to react. Exposing people to the effect of tear gas while rendering them unable to promptly escape from it and at the same time possibly causing life-changing injury must be considered an excessive use of force and can amount to cruel and inhuman treatment. Weapons of such combined effects should therefore be prohibited in public order.

¹⁸ <https://www.amnesty.ca/news/spain-interior-minister-must-end-use-rubber-bullets>