

Article 9 legislation

Meetings of the Standing Committees of
the States Parties to the Ottawa
Convention
May 2006

International Committee of the Red Cross



Minimum requirement of
Article 9 :

" Each State Party shall take all appropriate legal, administrative and other measures, **including the imposition of penal sanctions, to prevent and suppress any activity prohibited** to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control. "



Who must implement Article 9 ?

" **Each State Party** shall take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control. "



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National legislation must:

- ▶ Define as crimes and provide penal sanctions for all activities prohibited by Article 1(a), (b) and (c) (use, develop, produce, otherwise acquire, stockpile, retain or transfer – see also assist, encourage, induce)
 - ▶ i.e. hold all individuals (military and civilian) accountable for violations of the Convention
- ▶ Apply definitions consistent with those of Article 2
- ▶ Recognize the exceptions permitted under Article 3, as required



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Article 9 Measures:

- ▶ **Who?** – Each State Party must
 - ▶ **What?** Take all appropriate measures
 - ▶ Legal, administrative and other measures
 - ▶ Including penal sanctions
 - ▶ **Why?** to prevent and suppress any activity prohibited by the Convention
 - ▶ **Where?** Undertaken by persons or on territory under its jurisdiction or control



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ICRC Proposed checklist

- ▶ In order to guide States in the preparation of their Annual Article 7 reports:
 - ▶ The ICRC has distributed a checklist
 - ▶ No need to complete this checklist and return it
 - ▶ Please review the answers in Form A regarding national measures (especially legislation)



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This checklist includes two parts:
 Firstly, legislative measures required by
 Article 9

	Does your legislation prohibit and provide punishment for these violations? (Art. 9)*	Is there a prohibition for <i>assisting, encouraging and inducing</i> these violations? (Art. 1 c and Art. 9)*
Use (Art. 1 a)		
Acquisition (Art. 1 b)		
Stockpiling (Art. 1 b)		
Retention (Art. 1 b)		
Transfer , including the physical movement of AP mines into or from national territory, and the transfer of title to and control over the mines (Art. 1 b, and Art. 2(4))		
Development (Art. 1 b)		
Production (Art. 1 b)		



And, secondly:

- ▶ **2. Other appropriate legal, administrative and other measures**
 - ▶ a) How would a fact finding mission (Art. 8) be facilitated: under what law, regulation, or other measure?
 - ▶ b) Is destruction of AP mines (Art. 4 and 5) provided for by law, regulation or by other measure?
 - ▶ c) Is there legislation, regulation or other measure to assist the Ministry or Department responsible for annual Article 7 reports, for example by requiring all persons, including other government officials, to provide the necessary information?



Other appropriate national implementation measures include:

▶ For all States Parties:

- ▶ measures to facilitate information-gathering for Article 7 reports
- ▶ measures to facilitate fact-finding missions under Article 8
- ▶ other measures to ensure respect for the Convention (e.g. harmonizing military doctrine with the Convention)



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Other appropriate national implementation measures (cont'd):

▶ For States Parties with stockpiles:

- ▶ measures to facilitate stockpile destruction (Article 4)

▶ For mine-affected States Parties:

- ▶ measures to facilitate implementation of Article 5 (i.e. mine clearance and other mine action) *see GICHD Guide to Developing Mine Action Legislation*



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Each State may choose the form of its legislation:

1. Special legislation;
2. Amendment to existing legislation; or
3. Combination of 1 and 2



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50 States Parties report
having **adopted legislation**
to implement the Convention (of 150)

* = countries are new in this category

*Albania	*Croatia	Luxembourg	South Africa
Australia	*Cyprus	Malaysia	Spain
Austria	Czech Republic	Mali	Sweden
Belarus	El Salvador	Malta	Switzerland
Belgium	Estonia	Mauritius	Trinidad & Tobago
Belize	France	Monaco	Turkey
*Bosnia and Herzegovina	Germany	New Zealand	United Kingdom
Brazil	Guatemala	Nicaragua	*Yemen
Burkina Faso	Honduras	Niger	Zambia
Cambodia	Hungary	Norway	Zimbabwe
Canada	Iceland	*Saint Vincent and the Grenadines	
Colombia	Italy	Seychelles	
Costa Rica	Japan		
	Liechtenstein		



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32 States Parties report being
in the process of adopting
 legislation to implement the Convention

* = countries are new in this category

Afghanistan	Chile	Malawi	Serbia & Montenegro
Argentina	D.R. Congo	Mauritania	Suriname
Bangladesh	R. Congo	Mozambique	Swaziland
Benin	Côte d'Ivoire	Nigeria	Thailand
Botswana	Djibouti	Panama	Togo
Cameroon	Guinea	Paraguay	Uganda
Chad	Jamaica	Peru	Uruguay
	Kenya	Philippines	
		Rwanda	
		Senegal	



25 States Parties report considering
existing laws to be sufficient to give effect
 to the Convention

* = countries are new in this category

Algeria	Mexico
Andorra	Moldova
Bulgaria	Netherlands
Central African Republic	Papua New Guinea
Denmark	Portugal
Guinée-Bissau	Romania
Holy See	Samoa
Ireland	Slovakia
Jordan	Slovenia
Kiribati	Tajikistan
Lesotho	Tanzania
Lithuania	Tunisia
FYR Macedonia	



5 States Parties report **assessing** whether to adopt legislation

Namibia, Nauru, Sierra Leone, Solomon Islands, Timor-Leste



34 States Parties for which information is as yet **unavailable or unclear**

* = countries are new in this category

Angola	Ethiopia	Qatar
Antigua and Barbuda	Fiji	Saint Kitts & Nevis
Bahamas	Gabon	Saint Lucia
Barbados	Gambia	San Marino
Bolivia	Ghana	Sao Tome & Principe
Burundi	Greece	Sudan
Cape Verde	Grenada	Turkmenistan
*Comoros	Guyana	Venezuela
Dominica	*Latvia	
Dominican Republic	Liberia	
Ecuador	Madagascar	
Equatorial Guinea	Maldives	
Eritrea	Niue	



Changes between 2005 and 2006, number of States Parties in the following categories:

	2005	2006
Legislation adopted	43	48
Considering whether to adopt legislation	6	5
State considers its existing legislation is adequate	25	25
Legislation is in process	36	32
Unclear or not reported	34	34
New States parties that have not yet reported		6
Totals	144	150



Tools for implementing Art. 9:

- ▶ ICRC – ICBL – Gov. of Belgium *Information Kit on the Development of National legislation to implement the Ottawa Convention* (English, French, Spanish, Russian)
- ▶ ICRC *Model Legislation for Common Law States* (English)
- ▶ ICRC Table of Article 9 National Implementation Measures, and the ICRC Article 9 Checklist (May 2006)
- ▶ ICRC's Advisory Service assists States in developing implementing legislation

