

ICRC Statement on Preventing and Suppressing Prohibited Activities (Article 9 of the Convention)

**Standing Committee on the General Status and Operation of the Convention
Monday 25 May 2009**

Thank you Mr. Co-Chair.

The Nairobi action plan calls on States to "develop and adopt legislative, administrative and other measures in accordance with Article 9 as soon as possible (...)" and to "report annually on progress as required by Article 7." States are also asked to "make their needs known to the ICRC or other relevant actors in instances when assistance is required to develop implementing legislation" and to "integrate the Convention's prohibitions and requirements into their military doctrine as soon as possible."

The ICRC is encouraged that since the last meeting of States Parties some States, for example Chile and Sudan, have made continued efforts to adopt full implementing legislation. Kiribati has adopted new domestic law and the ICRC commends Kiribati for its efforts. Some States are also realising that general law relating to explosives or weapons are not sufficient to fully implement their obligations under the Mine Ban Convention, and this has led them to start developing specific implementing legislation

We note however, with concern, that still too few States Parties - 89 - report having adopted legislation or have stated, either through Article 7 reports or elsewhere, that they consider their existing legislation to be sufficient. This number has remained unchanged since the 9th Meeting of States Parties. According to available information, a further 23 States have reported that they are in the process of adopting legislation. 14 of these, however, have been reporting this for four years or more, of which only three have mentioned article 9 measures in their Article 7 reports for the year 2008. Of perhaps even greater concern is the fact in the case of 26 States, there is either no information on their Article 9 obligations or the available information is unclear. Notably therefore, much is left to be done for many States to fulfil their obligations under Article 9 of the Convention.

The upcoming Second Review Conference is an ideal opportunity for States to move forward on adopting implementing legislation and we encourage those States that have reported being in the process of adopting legislation for several years to finalize this process by the Review Conference. It is of course also important to keep encouraging other States, which that have made no progress, or for which we have no information, to initiate the process, or to at the very least provide information on their status by the Review Conference. We also hope that the Action Plan to be adopted at the Review Conference will urge States Parties to fully implement their obligations under Article 9 as soon as possible. We also ask States to alert the ICRC if any of our information is incorrect or out of date.

In order to ensure full respect for the obligations under this Article of the Convention, it is crucial that such measures be taken and that all States that have not done so ensure that their domestic law is capable, at a minimum, of preventing and suppressing any activity prohibited by the Convention. National legislation should also include provisions to facilitate the implementation of mine action, as well as the operationalisation of the compliance mechanisms envisaged by Article 8 of the Convention.

It is important to note that Article 9 requires **each and every State Party** – regardless of whether or not it is affected by anti-personnel mines – to prevent and suppress violations of the Convention. The rationale for this requirement is to ensure that the norm prohibiting anti-personnel mines is enforceable everywhere, and is therefore truly universal.

The ICRC continues to provide assistance for the development of national implementing legislation to States Parties. Legal advisers of the ICRC's Advisory Service stand ready to assist more States in developing national legislation. As is known, the ICRC has developed a number of tools to assist States in the development of their national implementing legislation, including a model law.

The ICRC has produced a table categorising States Parties according to their implementation status and has produced a detailed table with information on individual States. The ICRC welcomes any further information, which States may have to update and complete our information. The ICRC also has available an easy-to-use checklist of minimum requirements to fulfil Article 9 obligations, and which can be used by all States Parties to ensure that their legislation conforms with Article 9 including those States that may consider their existing law as sufficient.

We encourage all States Parties to make use of the checklist to ensure their legislation meets the Article 9 requirements. We also urge States Parties to provide updates on their implementation efforts, especially those who are in the process of adopting legislation.

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