

# Article 9 legislation

Meetings of the Standing Committees of  
the States Parties to the Ottawa  
Convention  
April 2007

International Committee of the Red Cross



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. "



## 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. "



## 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
  - ▶ Not only in times of armed conflict
- ▶ Apply definitions consistent with those of Article 2
- ▶ Recognize the exceptions permitted under Article 3, as required



## 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



## 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)
- ▶ ICRC encourages States to ensure that Article 9 measures are included in Form A, *not just mine action* steps.



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

	Does your legislation <b>prohibit</b> and <b>provide punishment</b> for these violations? (Art. 9)*	Is there a prohibition for <b><i>assisting, encouraging and inducing</i></b> these violations? (Art. 1 c and Art. 9)*
Use (Art. 1 a)		
Acquisition (Art. 1 b)		
Stockpiling (Art. 1 b)		
Retention (Art. 1 b)		
<b>Transfer</b> , 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 (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*



When implementing the Convention, each State may choose from:

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



## 52 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	
<b>*Chad</b>	Italy	<b>*Senegal</b>	
Colombia	Japan	Seychelles	
Costa Rica	Liechtenstein		



## 36 States Parties report being **in the process** of adopting legislation to implement the Convention

\* = countries are new in this category

Afghanistan	Chile	Malawi	Serbia
Argentina	D.R. Congo	Mauritania	Suriname
Bangladesh	R. Congo	Mozambique	Swaziland
Benin	Côte d'Ivoire	Nigeria	Thailand
<b>*Bolivia</b>	Djibouti	Panama	Togo
Botswana	Guinea	Paraguay	Uganda
<b>*Brunei</b>	Jamaica	<b>*Peru</b>	Uruguay
Cameroon	<b>*Jordan</b>	Philippines	
	Kenya	Rwanda	
	<b>*Madagascar</b>	<b>*Saint Lucia</b>	



## 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
*Greece	Romania
Guinée-Bissau	Samoa
Holy See	Slovakia
Ireland	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



## 31 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	San Marino
Barbados	Gambia	Sao Tome & Principe
*Bhutan	Ghana	Sudan
Cape Verde	Grenada	Turkmenistan
Comoros	Guyana	Ukraine
Dominica	Latvia	Vanuatu
Dominican Republic	Liberia	Venezuela
Equatorial Guinea	Maldives	
Eritrea	Niue	



## 4 New Member States that have not yet reported

- ▶ Indonesia
- ▶ Cook Islands
- ▶ Haiti
- ▶ Montenegro





## Changes between 2005 and 2007, number of States Parties in the following categories:

	2005	2006	2007
▶ Legislation adopted	43	48	52
▶ Considering whether to adopt legislation	6	5	5
▶ State considers its existing legislation is adequate	25	25	25
▶ Legislation is in process	36	32	36
▶ Unclear or not reported	34	34	31
▶ New States parties that have not yet reported		6	4
<b>Totals</b>	<b>144</b>	<b>150</b>	<b>153</b>



## 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

