

Intervention of the International Committee of the Red Cross

Fifth Meeting of States Parties Bangkok

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General Status and Operation of the Convention Article 9

Respecting and ensuring respect for the Ottawa Convention is first and foremost the individual responsibility of each State Party. This fundamental principle of treaty law is embodied in Article 9 of the Convention, pursuant to which each State Party is required to take all appropriate legal, administrative and other measures including the imposition of penal sanctions to prevent and suppress any prohibited activity undertaken by persons, or on territory, within its jurisdiction or control.

It is crucial 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 further encourages each State Party to ensure the extraterritorial application of its legislation to its nationals.

National legislation should also include provisions to facilitate the implementation of mine action, as well as provisions to facilitate the operationalization of the compliance mechanisms envisaged by Article 8 of the Convention. Having said this, we agree with the ICBL's view that implementation of Article 9 should not become a substitute for ensuring that serious compliance concerns are addressed through the operationalization of Article 8. Article 9 and Article 8 set up complementary mechanisms -- national and international -- to deal with serious issues of compliance, which States Parties to this Convention must be ready to activate when necessary.

As has been noted, so far, out of 136 States Parties, only 35 have adopted national implementing legislation -- either through the adoption of specific legislation or through amendments to existing legislation, notably penal codes. This is clearly an insufficient number of States Parties. If national implementation measures are to be viewed -- as some States have -- as the "concrete manifestation of a State's political commitment" to implementing and ensuring respect for the Convention, it will be important that the number of States Parties having adopted national implementing legislation increase significantly by the Review Conference.

As is known, the ICRC has developed a number of tools to assist States in the development of their national implementing legislation. These include a legislation kit -- developed with the ICBL and the Government of Belgium, and available in English, French, Spanish and Russian -- as well as model legislation for common law States. The ICRC's Advisory Service, which consists of a worldwide network of regional legal advisers, is available to assist States Parties in the development of their implementing legislation. The Advisory Service is currently assisting many States

Parties in this regard. We encourage the Government delegations here to approach the ICRC delegation should they wish legal assistance in the development of their legislation.