

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. "



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



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)



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*



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

* = countries are new in this category

| | | | |
|--------------------------------|-----------------|--|-------------------|
| *Albania | *Croatia | Luxembourg | South Africa |
| Australia | Czech Republic | Malaysia | Spain |
| Austria | El Salvador | Mali | Sweden |
| Belarus | Estonia | Malta | Switzerland |
| Belgium | France | Mauritius | Trinidad & Tobago |
| Belize | Germany | Monaco | Turkey |
| *Bosnia and Herzegovina | *Greece | 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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34 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 |
| *Burundi | Guinea | Paraguay | Uganda |
| Cameroon | Jamaica | Peru | Uruguay |
| Chad | Kenya | Philippines | |
| | | Rwanda | |
| | | *Saint Lucia | |
| | | Senegal | |



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26 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 |
| *Cyprus | Portugal |
| Denmark | Romania |
| Guinée-Bissau | Samoa |
| Holy See | Slovakia |
| Ireland | Slovenia |
| Jordan | Tajikistan |
| Kiribati | Tanzania |
| Lesotho | Tunisia |
| Lithuania | |
| FYR Macedonia | |



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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 |
| Bolivia | Ghana | Sudan |
| Cape Verde | Grenada | Turkmenistan |
| *Comoros | Guyana | Venezuela |
| Dominica | *Latvia | |
| Dominican Republic | Liberia | |
| Ecuador | Madagascar | |
| Equatorial Guinea | Maldives | |
| Eritrea | Niue | |

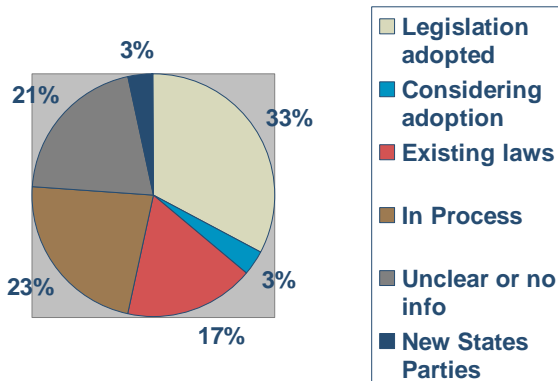


Changes between 2005 and 2006, number of States Parties in the following categories:

| | 2005 | 2006 |
|--|------------|------------|
| Legislation adopted | 43 | 49 |
| Considering whether to adopt legislation | 6 | 5 |
| State considers its existing legislation is adequate | 25 | 26 |
| Legislation is in process | 36 | 34 |
| Unclear or not reported | 34 | 31 |
| New States parties that have not yet reported | | 5 |
| Totals | 144 | 150 |



Status of Article 7 reporting



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



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