Article 9 legislation

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:

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Minimum requirement of Article 9:

Many States are now reconsidering their current legislation and realising that law that existed prior to their ratification of the Convention is not sufficient to fulfil their obligations under the Convention.
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

National legislation must:

- 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

<table>
<thead>
<tr>
<th>Measure</th>
<th>Does your legislation prohibit and provide punishment for these violations? (Art. 9)*</th>
<th>Is there a prohibition for assisting, encouraging and inducing these violations? (Art. 1 c and Art. 9)*</th>
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</thead>
<tbody>
<tr>
<td>Use (Art. 1 a)</td>
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<td>Acquisition (Art. 1 b)</td>
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<td>Retention (Art. 1 b)</td>
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<td>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))</td>
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<td>Development (Art. 1 b)</td>
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<td>Production (Art. 1 b)</td>
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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
### 61 States Parties report having adopted legislation to implement the Convention (of 156)

| Albania | Australia | Austria | Belarus | Belgium | Belize | Bosnia and Herzegovina | Brazil | Burkina Faso | Burundi | Cambodia | Canada | Chad | Colombia | Cook Islands | Costa Rica | Croatia | Cyprus | Czech | Czech Republic | Djibouti | El Salvador | France | Germany | Guatemala | Honduras | Hungary | Iceland | Ireland | Italy | Japan | Jordan | Kiribati | Latvia | Liechtenstein | Lithuania | Luxembourg | Malaysia | Mali | Malta | Mauritania | Mauritius | Monaco | New Zealand | Nicaragua | Niger | Norway | Peru | St. Vincent and the Grenadines | Senegal | Serbia | Seychelles | South Africa | Spain | Sweden | Switzerland | Trinidad & Tobago | Turkey | United Kingdom | Yemen | Zambia | Zimbabwe |

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

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

Bolivia
Brunei
Chile
D.R. Congo
Ecuador
Jamaica
Kenya
Kuwait
Madagascar
Malawi
Mozambique
Nigeria
Palau
Panama
Paraguay
Philippines
Rwanda
Saint Lucia
Sudan
Suriname
Thailand
Uganda
Vanuatu

18 States Parties for which no progress has been reported in implementation

Afghanistan
Bangladesh
Benin
Botswana
Cameroon
Congo
Côte d'Ivoire
Gabon
Guinea
Haiti
Namibia
Nauru
Sierra Leone
Solomon Islands
Swaziland
Timor-Leste
Togo
Uruguay
### 26 States for which there is no information, or the information is unclear

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<thead>
<tr>
<th>Angola</th>
<th>Dominican Republic</th>
<th>Liberia</th>
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<tbody>
<tr>
<td>Antigua and</td>
<td>Equatorial Guinea</td>
<td>Maldives</td>
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### 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