

The Tirana Workshop on Achieving a Mine-Free South
Eastern Europe, 7-9 Oct. 2009

**Preventing and Suppressing
Prohibited Activities:
Implementation of the Convention's
Article 9**



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International Committee of the Red Cross

Article 9 – National Implementation Measures

" 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. "



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Article 9 – what does it require?

- ▶ **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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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. "



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National legislation must:

- ▶ Define as crimes and provide penal sanctions for all activities prohibited under:
 - Article 1(a), (b): **use, develop, produce, otherwise acquire, stockpile, retain or transfer**
 - Article 1 (c) – **assist, encourage, induce**
- ▶ i.e. hold all individuals (military and civilian) accountable for violations of the Convention
- ▶ Not only in times of armed conflict



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National legislation must:

- ▶ **Apply definitions consistent with those of Article 2**
- ▶ **Recognize the exceptions permitted under Article 3, as required**



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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



ICRC checklist:

I. 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)		



ICRC checklist:

II. Other appropriate legal, administrative and other measures

- ▶ For States Parties with stockpiles:
 - ▶ Is destruction of AP mines (Art. 4 and 5) provided for by law, regulation or by other measure?
- ▶ For mine-affected States Parties:
 - ▶ Is mine clearance and other mine action to facilitate implementation of Article 5 provided for by law, regulation or by other measure? see *GICHD Guide to Developing Mine Action Legislation*
- ▶ How would a fact finding mission (Art. 8) be facilitated: under what law, regulation, or other measure?
- ▶ 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?
- ▶ Are military doctrine and manuals and training adapted to the provisions of the Convention?



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When implementing the Convention, each State may choose from:

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



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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



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61 States Parties report having **adopted legislation** to implement the Convention (of 156)

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



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

Algeria	Montenegro
Andorra	Netherlands
Argentina	Papua New Guinea
Bulgaria	Portugal
Central African Republic	Romania
Denmark	Samoa
Estonia	Slovakia
Greece	Slovenia
Guinée-Bissau	Tajikistan
Holy See	Tanzania
Indonesia	The FYR of Macedonia
Lesotho	Tunisia
Mexico	Ukraine
Moldova (Rep. of)	Venezuela



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

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



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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



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26 States for which there **is no information, or the information is unclear**

Angola
Antigua and Barbuda
Bahamas
Barbados
Bhutan
Cape Verde
Comoros
Dominica

Dominican Republic
Equatorial Guinea
Eritrea
Ethiopia
Fiji
Gambia
Ghana
Grenada
Guyana
Iraq

Liberia
Maldives
Niue
Qatar
Saint Kitts & Nevis
San Marino
Sao Tome & Principe
Turkmenistan



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