

Law

On the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons

I. GENERAL PROVISIONS

Article 1

This Law determines the obligations, prohibitions and limitations deriving from the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons (Official Gazette of the Republic of Macedonia No. 23/97), hereinafter referred to as the Convention:

Article 2

Certain terms used in this Law shall have the following meaning:

1. **“Chemical weapons”** means, together or separately:

- a) Toxic chemicals and their precursors, except where intended for purpose not prohibited under the Convention, as long as the types and quantities are consistent with such purposes;
- b) Munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals which would be released as a result of the employment of such munitions and devices;
- c) Any equipment specifically designed for the use directly in connection with the employment of munitions and devices.

2. **“Toxic chemical”** is any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals, which includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere;

3. **“Precursor”** is any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system.

4. **“Purposes not prohibited under the Convention”** are:

- industrial, agricultural, research, medical, pharmaceutical or other purposes;
- Protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;
- Military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare;

- Use of toxic chemicals and their precursors for riot control purposes in accordance with law.

5. **“Responsible person”** shall be a natural or legal entity in the capacity of an owner or user of land, buildings, equipment and toxic chemicals or their precursors which are subject to inspection in accordance with provisions of the Convention, and possesses the license under Articles 6 and 7 of this Law.

6. **“Production of a chemical”** is its creation through chemical reaction;

7. **“Processing of a chemical”** is a physical process, such as formulation, extraction and purification, in which a chemical is not converted into another chemical.

8. **“Consumption”** of a chemical is its conversion into another chemical via chemical reaction.

9. **“Trade”** is import, export, sale or any transfer to third parties.

10. **“Import”** is each entry of toxic chemicals or their precursors into the customs territory of the Republic of Macedonia, regardless of the type of allowed use or application of such a chemical, under the customs rules.

11. **“Export”** is each exit of the toxic chemicals or their precursors from the customs territory of the Republic of Macedonia.

12. **“Transit”** is each transfer of toxic chemicals or their precursors through the customs territory of the Republic of Macedonia, under customs control.

13. **“Discrete organic chemical”** means any chemical belonging to the class of chemical compounds consisting of all compounds of carbon except for its oxides, sulfides, and metal carbonates, identifiable by chemical name, by structural formula , (if known) and CAS registry number (if assigned).

14. **“PSF chemical”** means an organic chemical that consists of the elements phosphorus, sulfur or fluor.

15. **“Organization”** means the Organization for the Prohibition of Chemical Weapons established under the Convention.

16. **“International inspection”** means inspection conducted by an inspection team composed of inspectors and inspection assistants of the Organization.

II PROHIBITONS TO DEVELOP, PRODUCE, USE AND STOCKPILE CHEMICAL WEAPONS

Article 3

Decision to prohibit or restrict the trade in toxic chemicals and their precursors with states not parties to the Convention or in accordance with an OPCW decision will be taken by the Government of the Republic of Macedonia.

Article 4

Under this Law, legal and natural persons are prohibited to:

(1) General prohibitions

- develop, produce, otherwise acquire, stockpile or retain chemical weapons;
- transfer, directly or indirectly, chemical weapons, to any legal or natural person;
- use chemical weapons;
- engage in any military preparations to use chemical weapons;
- assist, encourage or induce, in any way, anyone to engage in any activity prohibited under the Convention;
- use riot control agents as a method of warfare;
- engage in any other activities prohibited under the Convention.

(2) Prohibitions related to Schedule 1 of the Annex on Chemicals to the Convention:

- produce, acquire, retain, or use Schedule 1 chemicals, unless they have been issued a license from the Ministry of Health, the Medicine Bureau. The Minister of Health shall prescribe the manner and procedure for issuance of licenses to develop, acquire, retain, or use of chemicals;
- produce, acquire, retain, or use Schedule 1 chemicals outside the territory of the Republic of Macedonia unless such production, acquisition, stockpiling or use are conducted on the territory of another State Party to the Convention or the said chemicals are legally transported to another State Party to the Convention;
- transfer Schedule 1 chemicals outside the territory of the Republic of Macedonia to a country which is not a State Party to the Convention;
- retransfer to a third state Schedule 1 chemicals transferred to the Republic of Macedonia.

(3) Prohibitions related to Schedule 2 of the Annex on Chemicals to the Convention:

- import and export Schedule 2 chemicals to a country which is not a State Party to the Convention unless:
 - The product contains less than one (1) percentage of 2A or 2A* chemical;

- The product contains less than ten (10) percentages of 2B chemicals;
- The product is considered a wide consumption product, packed for retail or personal use.

(4) Prohibitions related to Schedule 3 of the Annex on Chemicals to the Convention:

- export Schedule 3 chemicals to a country which is not a State Party to the Convention, without an end user certificate from the competent authority of the country which is not a State Party to the Convention.

III. COMMISSION FOR THE IMPLEMENTATION OF THE CONVENTION

Article 5

(1) The Government of the Republic of Macedonia shall establish a Commission for the implementation of the Convention (hereinafter the Commission);

(2) The Commission consists of representatives of: Ministry of Health – Medicine Bureau, Ministry of Foreign Affairs, Ministry of Internal Affairs, Ministry of Defence, Ministry of Environment and Spatial Planning, Ministry of Economy, Ministry of Finance - Customs Administration, and Protection and Rescue Directorate;

(3) The Commission shall perform the following functions:

- cooperate with the organization and other States Parties to the Convention;
- collect data at the national level that is obliged to exchange with the Organization under the Convention;
- supervise the implementation and application of the Convention;
- submit to the Organization and other States Parties data and information in respect of the fulfillment of obligations of the Republic of Macedonia under the Convention;
- cooperate in drafting agreements that the Government of the Republic of Macedonia is to conclude with the Organization in accordance with the Convention;
- cooperate in determining the requests for covering costs related to international inspection;
- cooperate and accompany international inspections of the Organization;
- in accordance with Article X of the Convention, it shall cooperate with the Organization in case of a threat of use or factual use of chemical weapons;
- prohibit or restrict the trade in toxic chemicals and their precursors with countries which are not States Parties to the Convention or if such restrictions or prohibitions are required following a decision of the Organisation.

(4) The Commission adopts its own Rules of Procedure.

(5) The Ministry of Health – Medicine Bureau is in charge of the administrative-technical matters stemming from the operation of the Commission.

(6) The Commission submits a report to the Government of the Republic of Macedonia once a year.

IV. - RESPONSIBILITIES OF STATE ADMINISTRATIVE BODIES

Article 6

(1) Toxic chemicals and their precursors may be produced and chemical production facilities may operate for purposes which are not prohibited under the Convention, based on a license issued by the Ministry of Health, issued upon a prior approval of the Ministries of Economy, Environment and Spatial Planning, and of Internal Affairs, as well as of the Protection and Rescue Directorate.

(2) The license referred to in paragraph 1 of this Article shall be required for any change or conversion of the toxic chemical production facility.

(3) The production of and trade in toxic chemicals are regulated with the relevant regulations on production and trade of poisons;

(4) The Medicine Bureau, at the Ministry of Health, shall keep the Registry of licenses issued under this Article.

(5) The Minister of Health shall prescribe the form and contents of the Registry as well as the manner how to operate it.

Article 7

(1) Any import, export and transit of toxic chemical and their precursors for purposes not prohibited under the Convention shall be conducted only on the basis of previously issued license by the Medicine Bureau, at the Ministry of Health, which shall issue such licenses within 30 days at the latest.

(2) A license for import, export, transit and stockpiling of toxic chemicals and their precursors shall be issued by the Ministry of Health within 3 months from the receipt of the completed application.

(3) The issuance of licenses referred to in paragraphs 1 and 2 of this Article shall be regulated with the relevant regulations on production of and trade in poisons.

(4) The Medicine Bureau, at the Ministry of Health, shall keep a registry of licenses issued in pursuance with paragraphs 1 and 2 of this Article.

(5) The Minister of Health shall prescribe the form and contents of the Registry as well as the manner how to operate it.

Article 8

(1) The supervision of the import, export and transit of toxic chemicals and their precursors shall be conducted by the Customs Administration, Ministry of the Interior and Protection and Rescue Directorate.

(2) The Customs Administration shall allow entry of toxic chemicals and their precursors in the customs territory if in addition to other documentation required in the application of customs regulations, the applicants also submit licenses required under Article 7 of this Law.

(3) The Customs Administration, the Ministry of the Interior, and the Protection and Rescue Directorate that have established a violation of this Law or of the Convention are obliged to immediately inform the Commission.

Article 9

(1) In case of an attempt to import chemical weapons or toxic chemicals without a license, which is required under Article 7 paragraph 1 of this Law, the Ministry of Internal Affairs will provisionally impound the chemical weapon or toxic chemical until a legally effective verdict has been handed down in criminal proceedings.

(2) The chemical weapons or toxic chemical referred to in paragraph 1 of this article shall be kept at appropriate institutions that possess warehouses for storage of chemical weapons and toxic chemicals.

(3) The Minister of Health, in an agreement with the Ministers of Economy, Internal Affairs, and Environment and Special Planning, and the Director of the Protection and Rescue Directorate shall regulate the minimum technical and security standards to be fulfilled by the warehouses referred to in paragraph 2 of this article as well as the manner of keeping and storage of the provisionally impounded chemical weapons and toxic chemicals.

(4) The costs for the storage of the chemical weapons and toxic chemicals referred to in paragraph 1 of this article shall be born by the owner of the chemical weapon or toxic chemicals.

Article 10

(1) The responsible person shall be obliged to submit, upon a written request by the Ministry of Foreign Affairs and Ministry of Health – Medicine Bureau, data on the production process, consumption, processing of toxic chemicals and their precursors, data on the facilities and technical equipment, data on the import, export, transit and stockpiling, including data on the quantities of specific toxic chemicals and their precursors, as well as data on the production of discrete chemicals and PSF chemicals.

(2) The responsible person must submit other documents as well, upon a written request of the Ministry of Foreign Affairs and Ministry of Health – Medicine Bureau.

Article 11

(1) The data required for the implementation of the Convention and of this Law shall be kept at the Ministry of Foreign Affairs.

(2) The bodies responsible for the implementation of this Law shall be obliged to handle the confidential information submitted to them by the responsible person in accordance with the legal regulations on classified information.

Article 12

(1) The inspection and supervision of the implementation of the Convention, of this Law and of the bylaws under this Law shall be conducted, within their competencies, by:

1. Inspectors of the Ministry of the Interior and the Protection and Rescue Directorate (hereinafter referred to as inspectors);
2. International inspectors, in accordance with the mandate under the Convention and international agreement between the Republic of Macedonia and the Organization.

(2) International inspectors referred to in Paragraph 1.2 of this Article enjoy privileges and immunities pursuant to the Convention.

Article 13

(1) The inspectors referred to in Article 12 Paragraph 1.1 shall have the following competencies:

1. Order measures to eliminate the irregularities and deficiencies in relation to activities under Articles 6 and 7 of this Law, within a given timeframe;
2. Interrupt by an order the production, use, processing transit, trade and stockpiling of toxic chemicals and their precursors;
3. Interrupt by an order all activities at facilities for which a license is required under Articles 6 and 7 of this Law, if the responsible person does not possess the necessary license.

(2) The inspector shall inform the Commission on measures undertaken in accordance with the competencies referred to in paragraph 1 of this Article.

(3) An appeal may be lodged against the order of the inspector issued in accordance with the paragraph 1 of this Article to the relevant governmental body, within eight days upon receipt of the order.

(4) The appeal referred to in Paragraph 3 of this article does not delay the execution of the order.

V INTERNATIONAL INSPECTION

Article 14

(1) The Ministry of Foreign Affairs shall inform the Chairperson of the Commission or his/her Deputy about the receipt of notification of arrival of an international inspection.

(2) The Commission must immediately inform the Government about any notification of arrival of an international inspection.

(3) The procedure for reception, accompanying and sending different types of international inspections on chemical weapons, the procedure for carrying out of an inspection, the rights of the Republic of Macedonia as well as the duties and competencies of the in-country escort team shall be regulated with the relevant provisions of the Convention.

Article 15

The responsible person shall be obliged to allow international inspection, to cooperate with the escort teams and to provide assistance in the conduct of the international inspection.

Article 16

(1) The international inspections shall be accompanied by an in-country escort team in accordance with the Convention.

(2) The in-country escort team shall be responsible to see to it that the members of the international inspection team throughout the inspection respect the obligations and enjoy the rights envisaged by the Convention.

(3) The in-country escort team shall be proposed and designated by the chairman of the Commission, in close consultations with its members. The in-country escort team members shall be:

- Commission members;
- employees of the Ministries in charge of health, foreign affairs, internal affairs, defense, and environment as well as of the Protection and Rescue Directorate;
- employees at the responsible persons.

(4) The Head of the in-country escort team shall be the representative of the Commission. In case of an inspection of a military institution, the Head of the in-country escort team shall authorize a representative of the Ministry of Defense to lead the in-country escort team.

(5) The Head of the in-country escort team shall issue oral orders and guidance necessary for the conduct of inspection, and other orders required for the fulfillment of competencies and for fulfillment of the cooperation obligations. The appeal against an oral order by the Head of the in-country escort team shall not defer its execution.

Article 17

The border points of entry of the international inspection shall be determined by the Minister of the Interior, in agreement with the Minister of Foreign Affairs.

VI PENAL PROVISIONS

Article 18

Anyone who shall misuse chemical weapons shall be penalized in accordance with the Penal Code.

Article 19

(1) A fine of 100.000 to 300.000 MKD shall be imposed on legal entities that:

1. act in contravention of paragraphs 3 and 4 of Article 4 of this Law;
2. have not acquired appropriate licenses before they start production of toxic chemicals and their precursors (Article 6);
3. have not acquired relevant licenses for operation of facilities for production of toxic chemicals and their precursors, prior to the start of the operation of the facility (Article 6);
4. have not acquired relevant licenses for change or conversion of the toxic chemical production facility prior to the start of the operation of the facility (paragraph 2, Article 6);
5. import, export, conduct transit, stockpile or use toxic chemicals and their precursors without having acquired the necessary license (paragraph 1, Article 7)
6. act in contravention of Article 8 of this Law;
7. act in contravention of Article 10 of this Law;
8. do not submit data requested under Article 10;
9. act in contravention of Article 11, paragraph 2 of this Law;
10. do not allow international inspection (Article 15).

(2) A fine of 30.000 to 50.000 MKD shall be imposed on the responsible individual in the legal entity who shall commit an offence according to Paragraph 1 of this Article.

(3) A fine of 10.000 to 30.000 MKD shall be imposed on the natural person who shall produce, import, export, transfer or retransfer toxic chemical according to Paragraph 1 of this Article.

(4) In case of offences according to Paragraph 1 of this Article the natural or legal person will also be penalized by impounding of goods.

(5) In case of offence according to Paragraph 1 of this Article, in addition to the monetary fine, the responsible individual in the legal entity will also be prohibited to execute a his/her responsible function for a period from three months to one year.

(6) In case of offence according to Paragraph 1 of this Article, in addition to the monetary fine, the legal entity will also be prohibited to execute his/her function for a period from 2 to 4 years, whereas the natural person from six months to one year.

Article 20

(1) A fine of 50.000 to 100.000 MKD shall be imposed on legal persons that:

1. shall not submit other required documentation for which a specific request has been made (Article 10, paragraph 2);
2. do not provide assistance to the in-country escort team in the conduct of inspection (Article 15);
3. do not respect the orders and guidelines of the Head of the in-country escort team (Article 16, paragraph 5).

(2) A fine of 20.000 to 40.000 MKD shall be imposed on the responsible individual in the legal entity that shall commit an offence according to paragraph 1 of this Article.

(3) A fine of 10.000 to 20.000 MKD shall be imposed on the natural person who shall commit an offence according to paragraph 1 of this Article.

VII TRANSITIONAL AND FINAL PROVISIONS

Article 21

The bylaws, under this Law, shall be adopted within a year, at the latest, upon the entry into force of this Law.

Article 22

This Law shall enter into force on the eighth day following its publications in the Official Gazette of the Republic of Macedonia.