



THE DECISION OF THE ITALIAN PRESIDENT OF THE REPUBLIC TO SEND THE LAW AMATI BACK TO THE PARLIAMENT

On October 27th, 2017 the President of the Italian Republic, Sergio Mattarella, did not enact the law concerning measures to ban the financial support of companies producing anti-personnel mines and cluster munitions. In particular, the draft law was aimed not only at banning totally the financing but also at establishing administrative sanctions for those who do not abide with the ban.

According to the President, the law cannot be enacted since it did not comply with the international framework on the matter provided by Art. 9 of Ottawa Convention on anti-personnel mines and Art. 9 of the Oslo Convention on Cluster Munitions. In its opinion, the sanction regime contained in Art. 6 of the Italian draft law did not align with the provisions contained in the two Conventions for what regarded the obligation imposed on State parties to take penal sanctions against mine and cluster munitions financial supporters.

This paper takes as starting point the interpretation of Art. 9 given by the President in order to examine, in first instance, if this provision was meant to establish an actual obligation for the State to undertake penal sanctions or if, on the contrary, it was only aimed at obliging Parties to implement appropriate measure not necessarily of penal nature.

The second part of the work is aimed at analyzing the Italian legislation on anti-personnel mines and cluster munitions. This part is specifically addressed to verify if the domestic law is in compliance with international law requirements, outlining several critical aspects of the Italian law on the subject.

Finally, the paper will focus on suggestions and recommendations concerning measures that should be taken into consideration by the Parliament to fulfill an appropriate harmonization of the Italian legislation with international law provisions concerning anti-personnel mines and clusters munitions.