

Uradni list

Republike Slovenije



Mednarodne pogodbe

Internet: <http://www.uradni-list.si>

e-pošta: info@uradni-list.si

Št. **19** (Uradni list RS, št. 76)

Ljubljana, četrtek **24. 8. 2000**

ISSN 1318-0932

Leto X

101. Zakon o ratifikaciji Evropske konvencije o mednarodni veljavnosti kazenskih sodb (MEKMVK)

Na podlagi druge alineje prvega odstavka 107. člena in prvega odstavka 91. člena Ustave Republike Slovenije izdajam

U K A Z

O RAZGLASITVI ZAKONA O RATIFIKACIJI EVROPSKE KONVENCIJE O MEDNARODNI VELJAVNOSTI KAZENSKIH SODB (MEKMVK)

Razglašam Zakon o ratifikaciji Evropske konvencije o mednarodni veljavnosti kazenskih sodb (MEKMVK), ki ga je sprejel Državni zbor Republike Slovenije na seji 26. julija 2000.

Št. 001-22-157/00

Ljubljana, dne 3. avgusta 2000

Predsednik
Republike Slovenije
Milan Kučan l. r.

Z A K O N

O RATIFIKACIJI EVROPSKE KONVENCIJE O MEDNARODNI VELJAVNOSTI KAZENSKIH SODB (MEKMVK)

1. člen

Ratificira se Evropska konvencija o mednarodni veljavnosti kazenskih sodb, sestavljena v Haagu dne 28. maja 1970.

2. člen

Konvencija se v izvorniku v angleškem jeziku in slovenskem prevodu glasi:

EUROPEAN CONVENTION ON THE INTERNATIONAL VALIDITY OF CRIMINAL JUDGMENTS

EVROPSKA KONVENCIJA O MEDNARODNI VELJAVNOSTI KAZENSKIH SODB

Preamble

The member States of the Council of Europe, signatory hereto,

Considering that the fight against crime, which is becoming increasingly an international problem, calls for the use of modern and effective methods on an international scale;

Convinced of the need to pursue a common criminal policy aimed at the protection of society;

Conscious of the need to respect human dignity and to promote the rehabilitation of offenders;

Considering that the aim of the Council of Europe is to achieve greater unity between its Members,

Have agreed as follows:

Uvod

Države članice Sveta Evrope, podpisnice te konvencije,

sodijo, da boj proti kriminalu, ki vse bolj postaja mednarodni problem zahteva na mednarodni ravni uporabo sodobnih in učinkovitih metod,

so prepričane o potrebi, da je treba izvajati skupno kazensko politiko in zaščito družbe,

se zavedajo, da je treba spoštovati človeško dostojanstvo in pospeševati resocializacijo obsojencev

in so se glede na to, da je cilj Sveta Evrope doseči med njegovimi članicami večjo enotnost

dogovorile:

Part I Definitions

Article 1

For the purpose of this Convention:

- a "European criminal judgment" means any final decision delivered by a criminal court of a Contracting State as a result of criminal proceedings;
- b "Offence" comprises, apart from acts dealt with under the criminal law, those dealt with under the legal provisions listed in Appendix II to the present Convention on condition that where these provisions give competence to an administrative authority there must be opportunity for the person concerned to have the case tried by a court;
- c "Sentence" means the imposition of a sanction;
- d "Sanction" means any punishment or other measure expressly imposed on a person, in respect of an offence, in a European criminal judgment, or in an *ordonnance pénale*;
- e "Disqualification" means any loss or suspension of a right or any prohibition or loss of legal capacity;
- f "Judgment rendered *in absentia*" means any decision considered as such under Article 21, paragraph 2;
- g "*ordonnance pénale*" means any of the decisions delivered in another Contracting State and listed in Appendix III to this Convention.

Part II Enforcement of European criminal judgments

Section 1 – General provisions

a – General conditions of enforcement

Article 2

This part is applicable to:

- a sanctions involving deprivation of liberty;
- b fines or confiscation;
- c disqualifications.

Article 3

1. A Contracting State shall be competent in the cases and under the conditions provided for in this Convention to enforce a sanction imposed in another Contracting State which is enforceable in the latter State.

2. This competence can only be exercised following a request by the other Contracting State.

Article 4

1. The sanction shall not be enforced by another Contracting State unless under its law the act for which the sanction was imposed would be an offence if committed on its territory and the person on whom the sanction was imposed liable to punishment if he had committed the act there.

2. If the sentence relates to two or more offences, not all of which fulfil the requirements of paragraph 1, the sentencing State shall specify which part of the sanction applies to the offences that satisfy those requirements.

Article 5

The sentencing State may request another Contracting State to enforce the sanction only if one or more of the following conditions are fulfilled:

I. del Opredelitev pojmov

1. člen

V tej konvenciji:

- a) "evropska kazenska sodba" pomeni pravnomočno odločbo, ki jo je izdalo kazensko sodišče države pogodbenice v kazenskem postopku;
- b) "kaznivo dejanje" obsega poleg dejanj po kazenskem pravu tudi tista, ki se obravnavajo po pravnih določbah, navedenih v Prilogi II. te konvencije pod pogojem, da mora biti, kadar te določbe dajejo pristojnost upravnemu organu, zagotovljena možnost, da ima prizadeta oseba sodno varstvo;
- c) "obsodba" pomeni izrek sankcije;
- d) "sankcija" pomeni vsako kazen ali drug ukrep, izrečen osebi za kaznivo dejanje v evropski kazenski sodbi ali v kazenskem sklepu;
- e) "izguba pravice" pomeni trajno ali začasno izgubo pravic, vsako prepoved ali odvzem poslovne sposobnosti;
- f) "sodba v nenavzočnosti" pomeni vsako odločbo na podlagi drugega odstavka 21. člena;
- g) "kazenski sklep" pomeni vsako odločbo izdano v drugi državi pogodbenici in navedeno v prilogi III. te konvencije.

II. del Izvršitev evropskih kazenskih sodb

1. Poglavje – Splošne določbe

a) Splošni pogoji izvršitve

2. člen

Ta del se uporablja:

- a) za sankcije odvzema prostosti,
- b) za denarne kazni ali zaplembe,
- c) za izgubo pravic.

3. člen

1. V zadevah in pod pogoji navedenimi v tej konvenciji, je vsaka država pogodbenica pristojna, da izvrši sankcijo, ki je bila izrečena v drugi državi pogodbenici in je tam izvršljiva.

2. Ta pristojnost se lahko uresniči samo na zaprosilo druge države pogodbenice.

4. člen

1. Sankcijo lahko izvrši druga država pogodbenica samo, če bi bilo po njenem pravu dejanje za katero je bila sankcija izrečena kaznivo dejanje, če bi bilo strojeno na njenem ozemlju in če bi bila oseba, ki ji je bila sankcija izrečena, kazensko odgovorna, če bi dejanje storila tam.

2. Če se obsodba nanaša na več kaznivih dejanj od katerih vsa ne izpolnjujejo zahtev iz prvega odstavka tega člena, država izreka obsodbe določi, kateri del sankcije se nanaša na kazniva dejanja, ki izpolnjujejo te zahteve.

5. člen

Država izreka obsodbe lahko zahteva izvršitev sankcije od druge države pogodbenice le, če je izpolnjen vsaj eden od naslednjih pogojev:

a if the person sentenced is ordinarily resident in the other State;

b if the enforcement of the sanction in the other State is likely to improve the prospects for the social rehabilitation of the person sentenced;

c if, in the case of a sanction involving deprivation of liberty, the sanction could be enforced following the enforcement of another sanction involving deprivation of liberty which the person sentenced is undergoing or is to undergo in the other State;

d if the other State is the State of origin of the person sentenced and has declared itself willing to accept responsibility for the enforcement of that sanction;

e if it considers that it cannot itself enforce the sanction, even by having recourse to extradition, and that the other State can.

Article 6

Enforcement requested in accordance with the foregoing provisions may not be refused, in whole or in part, save:

a where enforcement would run counter to the fundamental principles of the legal system of the requested State;

b where the requested State considers the offence for which the sentence was passed to be of a political nature or a purely military one;

c where the requested State considers that there are substantial grounds for believing that the sentence was brought about or aggravated by considerations of race, religion, nationality or political opinion;

d where enforcement would be contrary to the international undertakings of the requested State;

e where the act is already the subject of proceedings in the requested State or where the requested State decides to institute proceedings in respect of the act;

f where the competent authorities in the requested State have decided not to take proceedings or to drop proceedings already begun, in respect of the same act;

g where the act was committed outside the territory of the requesting State;

h where the requested State is unable to enforce the sanction;

i where the request is grounded on Article 5.e and none of the other conditions mentioned in that article is fulfilled;

j where the requested State considers that the requesting State is itself able to enforce the sanction;

k where the age of the person sentenced at the time of the offence was such that he could not have been prosecuted in the requested State;

l where under the law of the requested State the sanction imposed can no longer be enforced because of the lapse of time;

m where and to the extent that the sentence imposes a disqualification.

Article 7

A request for enforcement shall not be complied with if enforcement would run counter to the principles recognised in the provisions of Section 1 of Part III of this Convention.

b – Effects of the transfer of enforcement

Article 8

For the purposes of Article 6, paragraph 1 and the reservation mentioned under c of Appendix I of the present Convention any act which interrupts or suspends a time limitation validly performed by the authorities of the sentencing State shall be considered as having the same effect for the purpose of reckoning time limitation in the requested State in accordance with the law of that State.

a) če ima obsojenec stalno prebivališče v drugi državi;

b) če izvršitev sankcije v drugi državi utegne izboljšati možnosti resocializacije obsojenca;

c) če bi v primeru sankcije odvzema prostosti to sankcijo izvršili šele po izvršitvi druge sankcije odvzema prostosti, ki jo obsojenec prestaja ali jo mora prestati v drugi državi;

d) če je druga država matična država obsojenca in je izrazila pripravljenost, da prevzame odgovornost za izvršitev te sankcije;

e) če sodi, da sama ne more izvršiti sankcije tudi, če bi zahtevala izročitev, druga država pa to lahko stori.

6. člen

Zaprošena izvršitev v skladu s prejšnjimi določbami ni mogoče v celoti ali delno zavrniti razen:

a) če bi bila izvršitev sankcije v nasprotju s temeljnimi načeli pravnega reda zaprošene države;

b) če zaprošena država sodi, da je kaznivo dejanje, za katero je bila izrečena obsodba politično ali čisto vojaško;

c) če zaprošena država sodi da obstajajo resni razlogi, da je bila obsodba izrečena ali poostrena zaradi rase, vere, narodnosti ali političnega prepričanja;

d) če bi bila izvršitev v nasprotju z mednarodnimi obveznostmi zaprošene države;

e) če zoper to osebo že teče kazenski postopek za isto dejanje v zaprošeni državi ali, če se zaprošena država odloči, da bo postopek za isto dejanje sama začela;

f) če so se pristojni organi zaprošene države odločili, da ne bodo začeli postopka ali da bodo ustavili že začeti postopek za to dejanje;

g) če je dejanje bilo storjeno zunaj ozemlja zaprošene države;

h) če zaprošena država ne more izvršiti sankcije;

i) če zaprosilo temelji na točki e) 5. člena in ni izpolnjen nobeden drug pogoj iz 5. člena;

j) če zaprošena država sodi, da lahko država prosilka sama izvrši sankcijo;

k) če obsojenec zaradi svoje starosti v času storitve kaznivega dejanja ne bi mogel biti preganjan v zaprošeni državi;

l) če je izrečena sankcija že zastarala po pravu zaprošene države;

m) če je s sodbo izrečena izguba pravice.

7. člen

Zaprosilu za izvršitev se ne ugotovi, če je izvršitev v nasprotju z načeli iz 1. poglavja III. dela te konvencije.

b) Učinki prenosa izvršitve

8. člen

Za uporabo prve točke 6. člena in s pridržkom, omejenim v točki c) priloge 1. te konvencije, se dejanja, ki prekinajo ali odložijo zastaranje in so jih veljavno opravili organi države izreka sodbe, upoštevajo v zaprošeni državi z istim učinkom za oceno zastaranja po pravu te države.

Article 9

1. A sentenced person detained in the requesting State who has been surrendered to the requested State for the purpose of enforcement shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence or detention order for any offence committed prior to his surrender other than that for which the sentence to be enforced was imposed, nor shall he for any other reason be restricted in his personal freedom, except in the following cases:

a when the State which surrendered him consents. A request for consent shall be submitted, accompanied by all relevant documents and a legal record of any statement made by the convicted person in respect of the offence concerned. Consent shall be given when the offence for which it is requested would itself be subject to extradition under the law of the State requesting enforcement or when extradition would be excluded only by reason of the amount of the punishment;

b when the sentenced person, having had an opportunity to leave the territory of the State to which he has been surrendered, has not done so within 45 days of his final discharge, or if he has returned to that territory after leaving it.

2. The State requested to enforce the sentence may, however, take any measure necessary to remove the person from its territory, or any measures necessary under its law, including proceedings by default, to prevent any legal effects of lapse of time.

Article 10

1. The enforcement shall be governed by the law of the requested State and that State alone shall be competent to take all appropriate decisions, such as those concerning conditional release.

2. The requesting State alone shall have the right to decide on any application for review of sentence.

3. Either State may exercise the right of amnesty or pardon.

Article 11

1. When the sentencing State has requested enforcement it may no longer itself begin the enforcement of a sanction which is the subject of that request. The sentencing State may, however, begin enforcement of a sanction involving deprivation of liberty when the sentenced person is already detained on the territory of that State at the moment of the presentation of the request.

2. The right of enforcement shall revert to the requesting State:

a if it withdraws its request before the requested State has informed it of an intention to take action on the request;

b if the requested State notifies a refusal to take action on the request;

c if the requested State expressly relinquishes its right of enforcement. Such relinquishment shall only be possible if both the States concerned agree or if enforcement is no longer possible in the requested State. In the latter case, a relinquishment demanded by the requesting State shall be compulsory.

Article 12

1. The competent authorities of the requested State shall discontinue enforcement as soon as they have knowledge of any pardon, amnesty or application for review of sentence or any other decision by reason of which the sanction ceases to be enforceable. The same shall apply to the enforcement of a fine when the person sentenced has paid it to the competent authority in the requesting State.

9. člen

1. Obsojenec, priprt v državi prosilki, ki izroččen zaprošeni državi zaradi izvršitve sankcije ne sme biti preganjan, obsojen ali priprt zaradi izvršitve neke kazni ali varnostnega ukrepa niti mu ne sme biti omejena osebna svoboda za kakršnokoli dejanje, ki ga je storil pred izročitvijo, razen, če je bila za to kaznivo dejanje izrečena obsodba, ki jo je treba izvršiti; izvzeti so naslednji primeri:

a) če država, ki ga je izročila na to pristane. Predložiti je treba zaprosilo za soglasje z vsemi potrebnimi dokumenti in sodnim zapisnikom, ki vsebuje vsako izjavo, ki jo je obsojenec dal v zvez s tem kaznivim dejanjem. Soglasje se da, kadar je kaznivo dejanje za katero je bilo soglasje zaprošeno, tako, da zanj velja izročitev po pravu države prosilke ali kadar bi bila izročitev izključena samo zaradi višine kazni;

b) če obsojenec ni zapustil ozemlja države, ki ji je bil predan v 45 dneh, potem, ko je bil izpuščen, čeprav je imel možnost, da bi to storil, ali če se je na to ozemlje vrnil, potem ko ga je že zapustil

2. Vendar pa zaprošena država lahko sprejme potrebne ukrepe, da osebo odstrani s svojega ozemlja ali ukrepe ki so po njenem pravu potrebni za preprečitev pravnih učinkov zastaranja vključno z ukrepi za zagotovitev navzočnosti.

10. člen

1. Izvršitev se izvede po pravu zaprošene države in samo ta država je pristojna za vse ustrezne odločitve vključno s pogojnimi odpustom.

2. Samo država prosilka ima pravico, da odloči o reviziji obsodbe.

3. Obe državi imata pravico podeliti amnestijo ali odločiti o pomilostitvi

11. člen

1. Ko je država izreka obsodbe zaprosila za izvršitev, sama ne sme začeti izvrševati te sankcije. Vendar pa lahko država izreka obsodbe začne izvrševati sankcijo odvzema prostosti, če je obsojenec v trenutku predložitve zaprosila že priprt na njenem ozemlju.

2. Država prosilka ponovno prevzame svojo pravico do izvršitve:

a) če umakne zaprosilo, preden jo je zaprošena država obvestila, da bo ugodila njenemu zaprosilu;

b) če jo zaprošena država obvesti, da je zavrnila njeno zaprosilo;

c) če se zaprošena država izrecno odpove svoji pravici do izvršitve. Taka odpoved je možna le ob soglasju obeh držav ali če izvršitev v zaprošeni državi ni več mogoča. V tem primeru je odpoved, ki jo zahteva država prosilka obvezna.

12. člen

1. Pristojni organi zaprošene države ustavijo izvršitev takoj ko izvejo za pomilostitev, amnestijo, zahtevo za revizijo obsodbe ali kakršnokoli drugo odločitev, zaradi katere sankcija preneha biti izvršljiva. Isto velja za izvršitev denarne kazni, kadar jo je obsojenec plačal pristojnim organom v državi prosilki.

2. The requesting State shall without delay inform the requested State of any decision or procedural measure taken on its territory that causes the right of enforcement to lapse in accordance with the preceding paragraph.

c – Miscellaneous provisions

Article 13

1. The transit through the territory of a Contracting State of a detained person, who is to be transferred to a third Contracting State in application of this Convention, shall be granted at the request of the State in which the person is detained. The State of transit may require to be supplied with any appropriate document before taking a decision on the request. The person being transferred shall remain in custody in the territory of the State of transit, unless the State from which he is being transferred requests his release.

2. Except in cases where the transfer is requested under Article 34 any Contracting State may refuse transit:

- a on one of the grounds mentioned in Article 6.b and c;
- b on the ground that the person concerned is one of its own nationals.

3. If air transport is used, the following provisions shall apply:

a when it is not intended to land, the State from which the person is to be transferred may notify the State over whose territory the flight is to be made that the person concerned is being transferred in application of this Convention. In the case of an unscheduled landing such notification shall have the effect of a request for provisional arrest as provided for in Article 32, paragraph 2, and a formal request for transit shall be made;

b where it is intended to land, a formal request for transit shall be made.

Article 14

Contracting States shall not claim from each other the refund of any expenses resulting from the application of this Convention.

Section 2 – Requests for enforcement

Article 15

1. All requests specified in this Convention shall be made in writing. They, and all communications necessary for the application of this Convention, shall be sent either by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State or, if the Contracting States so agree, direct by the authorities of the requesting State to those of the requested State; they shall be returned by the same channel.

2. In urgent cases, requests and communications may be sent through the International Criminal Police Organisation (Interpol).

3. Any Contracting State may, by declaration addressed to the Secretary General of the Council of Europe, give notice of its intention to adopt other rules in regard to the communications referred to in paragraph 1 of this article.

Article 16

The request for enforcement shall be accompanied by the original, or a certified copy, of the decision whose enforcement is requested and all other necessary documents. The original, or a certified copy, of all or part of the criminal file shall be sent to the requested State, if it so requires. The competent authority of the requesting State shall certify the sanction enforceable.

2. Država prosilka nemudoma obvesti zaproseno državo o vsaki odločitvi ali procesnem ukrepu sprejetem na njenem ozemlju, ki v skladu s prejšnjim odstavkom odpravi pravico do izvršitve.

c) Druge določbe

13. člen

1. Tranzit osebe, ki ji je odvzeta prostost in jo je treba prepeljati v tretjo državo pogodbenico na podlagi te konvencije, dovolji država pogodbenica čez svoje ozemlje samo na zaprosilo države v kateri je taki osebi odvzeta prostost. Država tranzita lahko zahteva vse ustrezne dokumente preden se odloči o zaprosilu. Prepeljana oseba mora ostati priprta na ozemlju države tranzita, razen če država iz katere je prepeljana zahteva, da se spusti na prostost.

2. Razen kadar se tranzit zahteva na podlagi 34. člena te konvencije, ga lahko vsaka država pogodbenica zavrne:

- a) zaradi enega od razlogov iz točk b) in c) 6. člena;
- b) če je prizadeta oseba njen državljan.

3. Pri letalskem prevozu se uporabljata naslednji določbi:

a) če ni predviden pristanek, lahko država iz katere je treba osebo prepeljati obvesti državo preleta, da je ta oseba prepeljana v skladu s to konvencijo. Ob nepredvidenem pristanku tako obvestilo velja kot zaprosilo za začasno aretacijo predvideno v 2. odstavku 32. člena te konvencije in je treba uradno zaprositi za tranzit;

b) če je pristanek predviden, je treba uradno zaprositi za tranzit.

14. člen

Državi pogodbenici medsebojno ne bosta zahtevali povrnitve stroškov zaradi uporabe te konvencije.

2. poglavje – Zaposila za izvršitev

15. člen

1. Zaposila, predvidena v tej konvenciji, so pisna. Pošljejo jih, tako kot vsa potrebna sporočila za uporabo te konvencije, ministrstvo za pravosodje države prosilke ministrstvu za pravosodje zaprosene države ali, če se pogodbenice tako sporazumejo, neposredno organi države prosilke organom zaprosene države; vračajo se po isti poti.

2. V nujnih primerih se zaposila in sporočila lahko pošiljajo preko mednarodne organizacije kriminalistične policije (Interpol).

3. Vsaka država pogodbenica lahko z izjavo, ki jo nalogi na generalnega sekretarja Sveta Evrope, sporoči, da se namerava ravnati po drugačnih pravilih glede sporočil iz 1. odstavka tega člena.

16. člen

Zaprosilu za izvršitev so priloženi izvornik ali overjena kopija odločbe, katere izvršitev se zahteva, in vsi potrebni dokumenti. Izvornik ali overjena kopija celotnega ali delnega kazenskega spisa se pošlje zaproseni državi, če ta to zahteva. Pristojni organ države prosilke potrdi, da je sankcija izvršljiva.

Article 17

If the requested State considers that the information supplied by the requesting State is not adequate to enable it to apply this Convention, it shall ask for the necessary additional information. It may prescribe a date for the receipt of such information.

Article 18

1. The authorities of the requested State shall promptly inform those of the requesting State of the action taken on the request for enforcement.

2. The authorities of the requested State shall, where appropriate, transmit to those of the requesting State a document certifying that the sanction has been enforced.

Article 19

1. Subject to paragraph 2 of this article, no translation of requests or of supporting documents shall be required.

2. Any Contracting State may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, by declaration addressed to the Secretary General of the Council of Europe, reserve the right to require that requests and supporting documents be accompanied by a translation into its own language or into one of the official languages of the Council of Europe or into such one of those languages as it shall indicate. The other Contracting States may claim reciprocity.

3. This article shall be without prejudice to any provisions concerning translation of requests and supporting documents that may be contained in agreements or arrangements now in force or that may be concluded between two or more Contracting States.

Article 20

Evidence and documents transmitted in application of this Convention need not be authenticated.

Section 3 – Judgments rendered *in absentia* and *ordonnances pénales*

Article 21

1. Unless otherwise provided in this Convention, enforcement of judgments rendered *in absentia* and of *ordonnances pénales* shall be subject to the same rules as enforcement of other judgments.

2. Except as provided in paragraph 3, a judgment *in absentia* for the purposes of this Convention means any judgment rendered by a court in a Contracting State after criminal proceedings at the hearing of which the sentenced person was not personally present.

3. Without prejudice to Articles 25, paragraph 2, 26, paragraph 2, and 29, the following shall be considered as judgments rendered after a hearing of the accused:

a any judgment *in absentia* and any *ordonnance pénale* which have been confirmed or pronounced in the sentencing State after opposition by the person sentenced;

b any judgment rendered *in absentia* on appeal, provided that the appeal from the judgment of the court of first instance was lodged by the person sentenced.

Article 22

Any judgment rendered *in absentia* and any *ordonnances pénales* which have not yet been the subject of appeal or opposition may, as soon as they have been rendered, be transmitted to the requested State for the purpose of notification and with a view to enforcement.

17. člen

Če zaprosena država sodi, da podatki, ki jih je poslala država prosilka, ne zadostujejo za uporabo te konvencije, zahteva dopolnitev potrebnih podatkov. Zaprošena država lahko zaprosi za prejem teh podatkov.

18. člen

1. Organi zaprosene države nemudoma obvestijo organe države prosilke o ukrepanju glede zaprosila za izvršitev.

2. Organi zaprosene države pošljejo, če je to potrebno, organom države prosilke, dokument, ki potrjuje, da je bila sankcija izvršena.

19. člen

1. Z izjemo določbe drugega odstavka tega člena se ne sme zahtevati prevod zaprosil in priloženih dokumentov.

2. Vsaka država pogodbenica si lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju ali pristopu z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, pridrži pravico zahtevati, da so zaprosilu in spremljevalnim dokumentom priloženi prevodi v njenem jeziku ali v enem od uradnih jezikov Sveta Evrope ali v enem od teh jezikov, ki ga določi. Druge države pogodbenice lahko uporabijo pravilo vzajemnosti.

3. Ta člen ne vpliva na določbe glede prevoda zaprosil in priloženih dokumentov, ki so vsebovane v sporazumih ali dogovorih, ki že veljajo ali utegnejo biti sklenjeni med dvema ali več državami pogodbenicami.

20. člen

Dokazil in dokumentov, ki so predani za uporabo te konvencije, ni treba overjati.

3. poglavje – Sodbe v nenavzočnosti in kazenski sklepi

21. člen

1. Če ni v tej konvenciji drugače določeno, veljajo za izvršitev sodb v nenavzočnosti in kazenskih sklepov ista pravila kot za izvršitev drugih sodb.

2. Z izjemo določb iz tretjega odstavka tega člena pomeni sodba v nenavzočnosti po tej konvenciji vsako sodbo, ki jo izda sodišče v državi pogodbenici v kazenskem postopku na obravnavi, če obsojenec na njej ni bil navzoč.

3. Brez vpliva na drugi odstavek 25. člena, drugi odstavek 26. člena in 29. člen se šteje za sodbo, izdano v kontradiktornem postopku:

a) vsaka sodba v nenavzočnosti in vsak kazenski sklep, potrjena ali izrečena v državi izreka sodbe po tem, ko ji je obsojenec ugovarjal;

b) vsaka sodba, izdana v nenavzočnosti po pritožbi, pod pogojem, da se je obsojenec pritožil na sodbo prvostopenjskega sodišča.

22. člen

Sodba v nenavzočnosti in kazenski sklepi, na katere se obsojenec še ni pritožil ali jim ni ugovarjal, se lahko takoj po izreku pošljejo zaproseni državi zaradi uradnega sporočila in morebitne izvršitve.

Article 23

1. If the requested State sees fit to take action on the request to enforce a judgment rendered *in absentia* or an *ordonnance pénale*, it shall cause the person sentenced to be personally notified of the decision rendered in the requesting State.

2. In the notification to the person sentenced information shall also be given:

a that a request for enforcement has been presented in accordance with this Convention;

b that the only remedy available is an opposition as provided for in Article 24 of this Convention;

c that the opposition must be lodged with such authority as may be specified; that for the purposes of its admissibility the opposition is subject to the provisions of Article 24 of this Convention and that the person sentenced may ask to be heard by the authorities of the sentencing State;

d that, if no opposition is lodged within the prescribed period, the judgment will, for the entire purposes of this Convention, be considered as having been rendered after a hearing of the accused.

3. A copy of the notification shall be sent promptly to the authority which requested enforcement.

Article 24

1. After notice of the decision has been served in accordance with Article 23, the only remedy available to the person sentenced shall be an opposition. Such opposition shall be examined, as the person sentenced chooses, either by the competent court in the requesting State or by that in the requested State. If the person sentenced expresses no choice, the opposition shall be examined by the competent court in the requested State.

2. In the cases specified in the preceding paragraph, the opposition shall be admissible if it is lodged with the competent authority of the requested State within a period of 30 days from the date on which the notice was served. This period shall be reckoned in accordance with the relevant rules of the law of the requested State. The competent authority of that State shall promptly notify the authority which made the request for enforcement.

Article 25

1. If the opposition is examined in the requesting State, the person sentenced shall be summoned to appear in that State at the new hearing of the case. Notice to appear shall be personally served not less than 21 days before the new hearing. This period may be reduced with the consent of the person sentenced. The new hearing shall be held before the court which is competent in the requesting State and in accordance with the procedure of that State.

2. If the person sentenced fails to appear personally or is not represented in accordance with the law of the requesting State, the court shall declare the opposition null and void and its decision shall be communicated to the competent authority of the requested State. The same procedure shall be followed if the court declares the opposition inadmissible. In both cases, the judgment rendered *in absentia* or the *ordonnance pénale* shall, for the entire purposes of this Convention, be considered as having been rendered after a hearing of the accused.

3. If the person sentenced appears personally or is represented in accordance with the law of the requesting State and if the opposition is declared admissible, the request for enforcement shall be considered as null and void.

23. člen

1. Če zaprosena država meni, da lahko ukrepa po zaprosilu za izvršitev izrečene sodbe v nenavzočnosti ali kazenskega sklepa, poskrbi, da je obsojenec osebno uradno obveščen o odločbi, izdani v državi prosilki.

2. V uradnem obvestilu obsojencu mora biti navedeno tudi:

a) da je bilo zaprosilo za izvršitev predloženo v skladu s to konvencijo;

b) da je edino razpoložljivo pravno sredstvo ugovor, kot je predviden v 24. členu te konvencije;

c) da mora biti ugovor vložen pri za to določenem organu; da za sprejemljivost ugovora veljajo določbe 24. člena te konvencije in da obsojenec lahko zahteva zaslišanje pred organi države izreka sodbe;

d) da se sodba za vse namene te konvencije šteje, kot da je bila izrečena v kontradiktornem postopku, če ugovor ni bil vložen v predpisanem roku.

3. Kopija uradnega obvestila se takoj pošlje organu, ki je zahteval izvršitev.

24. člen

1. Ko je bilo uradno obvestilo o odločbi vročeno v skladu s 23. členom te konvencije, je ugovor edino pravno sredstvo, ki ga ima obsojenec na voljo. Ugovor prouči po izbiri obsojenca bodisi pristojno sodišče v državi prosilki ali pristojno sodišče v zaproseni državi. Če obsojenec ni izbral države, prouči ugovor pristojno sodišče zaprosene države.

2. V primerih iz prejšnjega odstavka je ugovor dopusten, če je vložen pri pristojnem organu zaprosene države v 30 dneh od dneva, ko je bilo vročeno uradno obvestilo. Ta rok se računa v skladu z veljavnimi zakonskimi določbami zaprosene države. Pristojni organ te države takoj obvesti organ, ki je zaprosil za izvršitev.

25. člen

1. Če ugovor prouči država prosilka, je treba obsojenca pozvati na novo obravnavo zadeve v tej državi. Poziv na sodišče je treba osebno vročiti najkasneje 21 dni pred novo obravnavo. S pristankom obsojenca je ta rok lahko krajši. Novo obravnavo opravi pristojno sodišče v državi prosilki po postopku te države.

2. Če obsojenec osebno ne pride na sodišče ali če ni zastopan v skladu s pravom države prosilke, sodišče ugovor zavrže in sporoči svojo odločitev pristojnemu organu zaprosene države. Isti postopek se uporabi, če sodišče odloči, da je ugovor nedopusten. V obeh primerih se za vse namene te konvencije šteje, da sta bila sodba, ki je bila izrečena v nenavzočnosti, in kazenski sklep izrečena v kontradiktornem postopku.

3. Če obsojenec osebno pride na sodišče ali če je zastopan v skladu s pravom države prosilke in če je ugovor dopusten, se zaprosilo za izvršitev šteje za nično.

Article 26

1. If the opposition is examined in the requested State the person sentenced shall be summoned to appear in that State at the new hearing of the case. Notice to appear shall be personally served not less than 21 days before the new hearing. This period may be reduced with the consent of the person sentenced. The new hearing shall be held before the court which is competent in the requested State and in accordance with the procedure of that State.

2. If the person sentenced fails to appear personally or is not represented in accordance with the law of the requested State, the court shall declare the opposition null and void. In that event, and if the court declares the opposition inadmissible, the judgment rendered *in absentia* or the *ordonnance pénale* shall, for the entire purposes of this Convention, be considered as having been rendered after a hearing of the accused.

3. If the person sentenced appears personally or is represented in accordance with the law of the requested State, and if the opposition is admissible, the act shall be tried as if it had been committed in that State. Preclusion of proceedings by reason of lapse of time shall, however, in no circumstances be examined. The judgment rendered in the requesting State shall be considered null and void.

4. Any step with a view to proceedings or a preliminary enquiry, taken in the sentencing State in accordance with its law and regulations, shall have the same validity in the requested State as if it had been taken by the authorities of that State, provided that assimilation does not give such steps a greater evidential weight than they have in the requesting State.

Article 27

For the purpose of lodging an opposition and for the purpose of the subsequent proceedings, the person sentenced *in absentia* or by an *ordonnance pénale* shall be entitled to legal assistance in the cases and on the conditions prescribed by the law of the requested State and, where appropriate, of the requesting State.

Article 28

Any judicial decisions given in pursuance of Article 26, paragraph 3, and enforcement thereof, shall be governed solely by the law of the requested State.

Article 29

If the person sentenced *in absentia* or by an *ordonnance pénale* lodges no opposition, the decision shall, for the entire purposes of this Convention, be considered as having been rendered after the hearing of the accused.

Article 30

National legislations shall be applicable in the matter of reinstatement if the sentenced person, for reasons beyond his control, failed to observe the time-limits laid down in Articles 24, 25 and 26 or to appear personally at the hearing fixed for the new examination of the case.

Section 4 – Provisional measures

Article 31

If the sentenced person is present in the requesting State after notification of the acceptance of its request for enforcement of a sentence involving deprivation of liberty is received, that State may, if it deems it necessary in order to ensure enforcement, arrest him with a view to his transfer under the provisions of Article 43.

26. člen

1. Če ugovor prouči zaprošena država, je treba obsojenca pozvati na novo obravnavo zadeve v tej državi. Poziv na sodišče je treba osebno vročiti najkasneje 21 dni pred novo obravnavo. S pristankom obsojenca je ta rok lahko krajši. Novo obravnavo opravi pristojno sodišče v zaproseni državi po postopku te države.

2. Če obsojenec osebno ne pride na sodišče ali če ni zastopan v skladu s pravom zaprošene države, sodišče ugovor zavrže. V tem primeru in če sodišče odloči, da je ugovor nedopusten, se za vse namene te konvencije šteje, da sta bila sodba, ki je bila izrečena v nenavzočnosti, in kazenski sklep izrečena v kontradiktornem postopku.

3. Če obsojenec osebno pride na sodišče ali če je zastopan v skladu s pravom zaprošene države in če je ugovor dopusten, se storilcu za dejanje sodi, kot da bi bilo storjeno v tej državi. Zastaranje postopka zaradi izteka časa pa se v nobenih okoliščinah ne obravnava. Izdana sodba v državi prosilki se šteje za nično.

4. Vsak ukrep glede postopkov ali predhodne preiskave v državi izreka sodbe v skladu z njenimi zakoni in predpisi je enako veljaven v zaproseni državi, kot če bi ga sprejeli organi te države, pod pogojem, da prevzem takih ukrepov ne daje večje dokazne teže, kot jo imajo v državi prosilki.

27. člen

Za vložitev ugovora in za nadaljnji postopek ima obsojenec, zoper katerega je bila izdana sodba v nenavzočnosti ali izrečen kazenski sklep, pravico do pravne pomoči v primerih in po pogojih, kot jih predpisuje pravo zaprošene države oziroma države prosilke.

28. člen

Za vse sodne odločbe, izdane v skladu s tretjim odstavkom 26. člena te konvencije, in njihova izvršitev, velja izključno pravo zaprošene države.

29. člen

Če obsojenec, zoper katerega je bila izdana sodba v nenavzočnosti ali izrečen kazenski sklep, ne vloži ugovora, se za vse namene te konvencije šteje, da je bila odločba izdana v kontradiktornem postopku.

30. člen

Domača zakonodaja se uporablja za vrnitev v prejšnje stanje, če obsojenec iz razlogov, na katere ni mogel vplivati, ni spoštoval rokov, določenih v 24., 25. in 26. členu te konvencije ali ni osebno prišel na obravnavo, določeno za ponovno proučitev zadeve.

4. poglavje – Začasni ukrepi

31. člen

Če je obsojenec po uradnem obvestilu o sprejetju zaprosila za izvršitev kazni odvzema prostosti v državi prosilki, ga ta država lahko, če se ji zdi to potrebno, da zagotovi izvršitev, aretira zato, da ga preda v skladu z določbami 43. člena.

Article 32

1. When the requesting State has requested enforcement, the requested State may arrest the person sentenced:

- a if, under the law of the requested State, the offence is one which justifies remand in custody, and
- b if there is a danger of abscondence or, in case of a judgment rendered *in absentia*, a danger of secretion of evidence.

2. When the requesting State announces its intention to request enforcement, the requested State may, on application by the requesting State arrest the person sentenced, provided that requirements under a and b of the preceding paragraph are satisfied. The said application shall state the offence which led to the judgment and the time and place of its perpetration, and contain as accurate a description as possible of the person sentenced. It shall also contain a brief statement of the facts on which the judgment is based.

Article 33

1. The person sentenced shall be held in custody in accordance with the law of the requested State; the law of that State shall also determine the conditions on which he may be released.

2. The person in custody shall in any event be released:

- a after a period equal to the period of deprivation of liberty imposed in the judgment;
- b if he was arrested in pursuance of Article 32, paragraph 2, and the requested State did not receive, within 18 days from the date of the arrest, the request together with the documents specified in Article 16.

Article 34

1. A person held in custody in the requested State in pursuance of Article 32 who is summoned to appear before the competent court in the requesting State in accordance with Article 25 as a result of the opposition he has lodged, shall be transferred for that purpose to the territory of the requesting State.

2. After transfer, the said person shall not be kept in custody by the requesting State if the condition set out in Article 33, paragraph 2.a, is met or if the requesting State does not request enforcement of a further sentence. The person shall be promptly returned to the requested State unless he has been released.

Article 35

1. A person summoned before the competent court of the requesting State as a result of the opposition he has lodged shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence or detention order nor shall he for any other reason be restricted in his personal freedom for any act or offence which took place prior to his departure from the territory of the requested State and which is not specified in the summons unless he expressly consents in writing. In the case referred to in Article 34, paragraph 1, a copy of the statement of consent shall be sent to the State from which he has been transferred.

2. The effects provided for in the preceding paragraph shall cease when the person summoned, having had the opportunity to do so, has not left the territory of the requesting State during 15 days after the date of the decision following the hearing for which he was summoned to appear or if he returns to that territory after leaving it without being summoned anew.

32. člen

1. Kadar je država prosilka zaprosila za izvršitev, lahko zaprosena država aretira obsojenca:

- a) če je po pravu zaprosene države kaznivo dejanje tako, da opravičuje odvzem prostosti, in
- b) če obstaja nevarnost pobega ali nevarnost prikritja dokazov, kadar je sodba izrečena v nenavzočnosti.

2. Ko država prosilka najavi svojo namero, da bo zaprosila za izvršitev, lahko zaprosena država na prošnjo države prosilke aretira obsojenca pod pogojem, da sta izpolnjeni zahtevi iz točk a) in b) prejšnjega odstavka. V tej prošnji je treba navesti kaznivo dejanje, zaradi katerega je prišlo do sodbe, ter čas in kraj storitve tega dejanja, kakor tudi čim natančnejši osebni opis obsojenca. Vsebovati mora tudi kratko navedbo dejstev, na katerih temelji obsodba.

33. člen

1. Obsojenec je priporu v skladu s pogoji po pravu zaprosene države; pravo te države določa tudi pogoje, pod katerimi je lahko izpuščen na prostost.

2. Pripor se v vsakem primeru odpravi:

- a) po preteku časa, ki je enak času odvzema prostosti po sodbi;
- b) če je bil obsojenec aretiran na podlagi drugega odstavka 32. člena in zaprosena država v 18 dneh od aretacije ni prejela zaprosila skupaj z dokumenti, navedenimi v 16. členu.

34. člen

1. Priprta oseba v zaproseni državi na podlagi 32. člena te konvencije, ki je pozvana na pristojno sodišče v državi prosilki v skladu s 25. členom zaradi ugovora, ki ga je vložila, se v ta namen prepelje na ozemlje države prosilke.

2. Po predaji država prosilka te osebe ne sme imeti v priporu, če je izpolnjen pogoj iz točke a) drugega odstavka 33. člena te konvencije ali če država prosilka ne zaprosi za izvršitev nove obsodbe. Če oseba ni bila izpuščena na prostost, jo je treba takoj vrniti zaproseni državi.

35. člen

1. Oseba, ki je bila pozvana pred pristojno sodišče države prosilke zaradi ugovora, ki ga je vložila, ne sme biti preganjana, obsojena ali pridržana zaradi prestajanja kazni ali varnostnega ukrepa; prav tako ji ne sme biti iz nobenega drugega razloga omejena osebna svoboda za kakršno koli ravnanje ali kaznivo dejanje, ki je bilo storjeno pred njenim odhodom z ozemlja zaprosene države in ki ni navedeno v sodnem pozivu, razen če oseba s tem izrecno pisno ne soglaša. V primeru iz prvega odstavka 34. člena te konvencije je treba kopijo soglasja poslati državi, iz katere je bila oseba predana.

2. Učinki, predvideni v prejšnjem odstavku, prenehajo, če pozvana oseba ni zapustila ozemlja države prosilke v 15 dneh od datuma odločbe, ki je bila izdana po obravnavi, na katero je bila pozvana, čeprav bi to lahko storila, ali če se vrne na to ozemlje potem, ko ga je zapustila, ne da bi bila ponovno pozvana pred sodišče.

Article 36

1. If the requesting State has requested enforcement of a confiscation of property, the requested State may provisionally seize the property in question, on condition that its own law provides for seizure in respect of similar facts.

2. Seizure shall be carried out in accordance with the law of the requested State which shall also determine the conditions on which the seizure may be lifted.

Section 5 – Enforcement of sanctions

a – General clauses

Article 37

A sanction imposed in the requesting State shall not be enforced in the requested State except by a decision of the court of the requested State. Each Contracting State may, however, empower other authorities to take such decisions if the sanction to be enforced is only a fine or a confiscation and if these decisions are susceptible of appeal to a court.

Article 38

The case shall be brought before the court or the authority empowered under Article 37 if the requested State sees fit to take action on the request for enforcement.

Article 39

1. Before a court takes a decision upon a request for enforcement the sentenced person shall be given the opportunity to state his views. Upon application he shall be heard by the court either by letters rogatory or in person. A hearing in person must be granted following his express request to that effect.

2. The court may, however, decide on the acceptance of the request for enforcement in the absence of a sentenced person requesting a personal hearing if he is in custody in the requesting State. In these circumstances any decision as to the substitution of the sanction under Article 44 shall be adjourned until, following his transfer to the requested State, the sentenced person has been given the opportunity to appear before the court.

Article 40

1. The court, or in the cases referred to in Article 37, the authority empowered under the same article, which is dealing with the case shall satisfy itself:

- a that the sanction whose enforcement is requested was imposed in a European criminal judgment;
- b that the requirements of Article 4 are met;
- c that the condition laid down in Article 6.a is not fulfilled or should not preclude enforcement;
- d that enforcement is not precluded by Article 7;
- e that, in case of a judgment rendered *in absentia* or an *ordonnance pénale* the requirements of Section 3 of this part are met.

2. Each Contracting State may entrust to the court or the authority empowered under Article 37 the examination of other conditions of enforcement provided for in this Convention.

Article 41

The judicial decisions taken in pursuance of the present section with respect to the requested enforcement and those taken on appeal from decisions by the administrative authority referred to in Article 37 shall be appealable.

36. člen

1. Če je država prosilka zaprosila za zaplembo premoženja, lahko zaprosena država začasno tako premoženje zaseže pod pogojem, da njeno pravo predvideva zaseg za podobna dejanja.

2. Zaseg se opravi po pravu zaprosene države, ki določi tudi pogoje, pod katerimi se zaseg lahko odpravi.

5. poglavje – Izvršitev sankcij

a) Splošne določbe

37. člen

Sankcija, izrečena v državi prosilki, se v zaproseni državi izvrši samo na podlagi odločbe sodišča zaprosene države. Vsaka država pogodbenica pa lahko pooblasti druge organe, da sprejmejo take odločbe, če je sankcija samo denarna kazen ali zaplemba, in če je zoper take odločbe zagotovljeno sodno varstvo.

38. člen

Zadeva se predloži sodišču ali organu, ki je določen po 37. členu te konvencije, če zaprosena država meni, da lahko ukrepa po zaprosilu za izvršitev.

39. člen

1. Preden sodišče odloči o zaprosilu za izvršitev, je obsojencu dana možnost, da pove svoje mnenje. Na njegovo prošnjo ga sodišče zasliši po zaprosilu sodišča ali neposredno. Neposredno zaslišanje mora biti odobreno, če obsojenec to izrecno zahteva.

2. Vendar sodišče lahko odloči o sprejetju zaprosila za izvršitev v odsotnosti obsojenca, ki je zahteval neposredno zaslišanje, če je ta priprt v državi prosilki. V takih okoliščinah se vsaka odločitev o nadomestitvi sankcije po 44. členu odloži, dokler obsojenec ni dobil priložnosti, da pride na sodišče, potem ko je bil predan zaproseni državi.

40. člen

1. Sodišče oziroma v primerih iz 37. člena te konvencije za to določen organ, ki zadevo obravnava, se mora prepričati:

- a) da je sankcija, za katero je zahtevana izvršitev, zahtevana v evropski kazenski sodbi;
- b) da so izpolnjene zahteve iz 4. člena te konvencije;
- c) da ni izpolnjen pogoj iz točke a) 6. člena te konvencije oziroma da ta ne preprečuje izvršitve;
- d) da 7. člen te konvencije ne preprečuje izvršitve;
- e) da so, če je sodba izrečena v nenavzočnosti ali če je izdan kazenski sklep, izpolnjene zahteve iz 3. poglavja tega dela.

2. Država pogodbenica lahko sodišču ali določenemu organu iz 37. člena naloži proučitev drugih pogojev za izvršitev, predvidenih v tej konvenciji.

41. člen

Za sodne odločbe, sprejete glede zaprosene izvršitve na podlagi tega poglavja, in odločbe, sprejete na podlagi pritožb proti odločitvam upravnega organa iz 37. člena, mora biti omogočena pritožba.

Article 42

The requested State shall be bound by the findings as to the facts in so far as they are stated in the decision or in so far as it is impliedly based on them.

b – Clauses relating specifically to enforcement of sanctions involving deprivation of liberty

Article 43

When the sentenced person is detained in the requesting State he shall, unless the law of that State otherwise provides, be transferred to the requested State as soon as the requesting State has been notified of the acceptance of the request for enforcement.

Article 44

1. If the request for enforcement is accepted, the court shall substitute for the sanction involving deprivation of liberty imposed in the requesting State a sanction prescribed by its own law for the same offence.

This sanction may, subject to the limitations laid down in paragraph 2, be of a nature or duration other than that imposed in the requesting State. If this latter sanction is less than the minimum which may be pronounced under the law of the requested State, the court shall not be bound by that minimum and shall impose a sanction corresponding to the sanction imposed in the requesting State.

2. In determining the sanction, the court shall not aggravate the penal situation of the person sentenced as it results from the decision delivered in the requesting State.

3. Any part of the sanction imposed in the requesting State and any term of provisional custody, served by the person sentenced subsequent to the sentence, shall be deducted in full. The same shall apply in respect of any period during which the person sentenced was remanded in custody in the requesting State before being sentenced in so far as the law of that State so requires.

4. Any Contracting State may, at any time, deposit with the Secretary General of the Council of Europe a declaration which confers on it in pursuance of the present Convention the right to enforce a sanction involving deprivation of liberty of the same nature as that imposed in the requesting State even if the duration of that sanction exceeds the maximum provided for by its national law for a sanction of the same nature. Nevertheless, this rule shall only be applied in cases where the national law of this State allows, in respect of the same offence, for the imposition of a sanction of at least the same duration as that imposed in the requesting State but which is of a more severe nature. The sanction imposed under this paragraph may, if its duration and purpose so require, be enforced in a penal establishment intended for the enforcement of sanctions of another nature.

c – Clauses relating specifically to enforcement of fines and confiscations

Article 45

1. If the request for enforcement of a fine or confiscation of a sum of money is accepted, the court or the authority empowered under Article 37 shall convert the amount thereof into the currency of the requested State at the rate of exchange ruling at the time when the decision is taken. It shall thus fix the amount of the fine, or the sum to be

42. člen

Zaprošena država je vezana na ugotovitve dejstev, kot so ta navedena v odločbi oziroma na katerih temelji odločba.

b) Posebne določbe za izvršitev sankcij odvzema prostosti

43. člen

Če je obsojenec pridržan v državi prosilki, ga je treba predati zaprošeni državi takoj, ko je bila država prosilka uradno obveščena o ugoditvi zaprosilu za izvršitev, razen če njeno pravo ne določa drugače.

44. člen

1. Če je zaprosilu za izvršitev ugodeno, sodišče nadomesti sankcijo odvzema prostosti, izrečeno v državi prosilki, s sankcijo, predpisano po njenem pravu za isto kaznivo dejanje.

Ta sankcija je lahko v mejah, določenih v drugem odstavku, drugačne vrste in trajanja kot tista, ki jo je izrekla država prosilka. Če je ta sankcija nižja od minimuma, ki ga pravo zaprošene države dovoljuje, sodišče ni vezano na ta minimum in izreče sankcijo, ki ustreza sankciji, ki jo je izrekla država prosilka.

2. Pri določanju sankcije sodišče ne sme poslabšati kazenskega položaja obsojenca, kot ga je imel po odločbi, izrečeni v državi prosilki.

3. Vsak del sankcije, ki jo je izrekla država prosilka, in vsako obdobje začasnega pridržanja, ki ga je preстал obsojenec, se v celoti upoštevata. To velja tudi za preventivno pridržanje, ki ga je obsojenec preстал v državi prosilki pred svojo obsodbo, če to zahteva pravo te države.

4. Vsaka država pogodbenica lahko kadarkoli deponira pri generalnem sekretarju Sveta Evrope izjavo, ki ji daje na podlagi te konvencije pravico, da izvrši sankcijo odvzema prostosti iste vrste, kot jo je izrekla država prosilka, čeprav trajanje te sankcije presega maksimum, predviden po njenem pravu za sankcijo iste vrste. Kljub temu se to pravilo sme uporabiti le, kadar pravo te države dopušča, da se za isto dejanje izreče sankcija, ki je vsaj enako dolga kot tista, ki jo je izrekla država prosilka, vendar pa je strožja. Sankcija, izrečena po tem odstavku, je lahko, če njeno trajanje in namen tako zahtevata, izvršena v kazenskem zavodu, ki je namenjen za izvrševanje sankcij druge vrste.

c) Posebne določbe za izvršitev denarnih kazni in zaplemb

45. člen

1. Če je zaprosilu za izvršitev denarne kazni ali zaplemb denarne vsote ugodeno, sodišče ali organ, določen po 37. členu te konvencije, pretvori tak znesek v valuto zaprošene države po tečaju, ki velja na dan, ko je bila odločba izdana. Tako določi znesek denarne kazni ali vsoto, ki jo je treba zapleniti, ki pa ne sme preseči maksimuma,

confiscated, which shall nevertheless not exceed the maximum sum fixed by its own law for the same offence, or failing such a maximum, shall not exceed the maximum amount customarily imposed in the requested State in respect of a like offence.

2. However, the court or the authority empowered under Article 37 may maintain up to the amount imposed in the requesting State the sentence of a fine or of a confiscation when such a sanction is not provided for by the law of the requested State for the same offence, but this law allows for the imposition of more severe sanctions. The same shall apply if the sanction imposed in the requesting State exceeds the maximum laid down in the law of the requested State for the same offence, but this law allows for the imposition of more severe sanctions.

3. Any facility as to time of payment or payment by instalments, granted in the requesting State, shall be respected in the requested State.

Article 46

1. When the request for enforcement concerns the confiscation of a specific object, the court or the authority empowered under Article 37 may order the confiscation of that object only in so far as such confiscation is authorised by the law of the requested State for the same offence.

2. However, the court or the authority empowered under Article 37 may maintain the confiscation ordered in the requesting State when this sanction is not provided for in the law of the requested State for the same offence but this law allows for the imposition of more severe sanctions.

Article 47

1. The proceeds of fines and confiscations shall be paid into the public funds of the requested State without prejudice to any rights of third parties.

2. Property confiscated which is of special interest may be remitted to the requesting State if it so requires.

Article 48

If a fine cannot be exacted, a court of the requested State may impose an alternative sanction involving deprivation of liberty in so far as the laws of both States so provide in such cases unless the requesting State expressly limited its request to exacting of the fine alone. If the court decides to impose an alternative sanction involving deprivation of liberty, the following rules shall apply:

a) If conversion of a fine into a sanction involving deprivation of liberty is already prescribed either in the sentence pronounced in the requesting State or directly in the law of that State, the court of the requested State shall determine the nature and length of such sanction in accordance with the rules laid down by its own law. If the sanction involving deprivation of liberty already prescribed in the requesting State is less than the minimum which may be imposed under the law of the requested State, the court shall not be bound by that minimum and impose a sanction corresponding to the sanction prescribed in the requesting State. In determining the sanction the court shall not aggravate the penal situation of the person sentenced as it results from the decision delivered in the requesting State.

b) In all other cases the court of the requested State shall convert the fine in accordance with its own law, observing the limits prescribed by the law of the requesting State.

določenega po njenem pravu za isto kaznivo dejanje, če pa takega maksimuma ni, ne sme presegati najvišjega zneska, ki se običajno izreče v zaproseni državi za podobno kaznivo dejanje.

2. Vendar pa lahko sodišče ali organ, določen po 37. členu te konvencije, vztraja pri znesku, izrečenem v državi prosilki v obsodbi na denarno kazen ali zaplembo, kadar taka sankcija sicer ni predvidena po pravu zaprosene države za isto kaznivo dejanje, pač pa to pravo dopušča izrek strožjih sankcij. Enako velja, če sankcija, ki jo je izrekla država prosilka, presega maksimum, predviden po pravu zaprosene države za isto kaznivo dejanje, vendar pa to pravo dopušča izrek strožjih sankcij.

3. Vse ugodnosti glede roka plačila, odloga plačila ali plačila na obroke, ki so odobrene v državi prosilki, upošteva tudi zaprosena država.

46. člen

1. Če se zaprosilo za izvršitev nanaša na zaplembo določenega predmeta, lahko sodišče ali organ, določen po 37. členu te konvencije, odredi zaplembo tega predmeta samo, če je taka zaplemba dovoljena po pravu zaprosene države za isto kaznivo dejanje.

2. Kljub temu lahko sodišče ali organ, določen po 37. členu te konvencije, izvrši zaplembo, kot je bila izrečena v državi prosilki, četudi ta sankcija ni predvidena po pravu zaprosene države za isto kaznivo dejanje, pač pa to pravo dopušča izrek strožjih sankcij.

47. člen

1. Zneski denarnih kazni in zaplemb grede v državno blagajno zaprosene države, kar pa ne vpliva na pravice tretjih.

2. Zaplenjeno premoženje posebnega pomena se lahko izroči državi prosilki, če ta to zahteva.

48. člen

Če izvršitev denarne kazni ni mogoča, jo sodišče zaprosene države lahko nadomesti s sankcijo odvzema prostosti, če v takih primerih pravo obeh držav to predvideva, razen če je država prosilka izrecno omejila svojo zahtevo samo na izvršitev denarne kazni. Če sodišče izreče nadomestno sankcijo odvzema prostosti, se uporabljajo naslednja pravila:

a) če je sprememba denarne kazni v sankcijo odvzema prostosti že določena v sodbi, ki jo je izrekla zaprosena država, ali neposredno predpisana po njenem pravu, sodišče zaprosene države določi vrsto in trajanje takšne sankcije po pravilih svojega prava. Če je sankcija odvzema prostosti, predpisana v državi prosilki, nižja od minimuma, ki ga je mogoče izreči po pravu zaprosene države, sodišče ni vezano na ta minimum in izreče sankcijo, ki ustreza sankciji, predpisani v državi prosilki. Pri določanju sankcije sodišče ne sme poslabšati kazenskega položaja obsojenca, kot ga je imel po odločbi, izdani v državi prosilki.

b) V vseh drugih primerih sodišče zaprosene države spremeni denarno kazen v skladu s svojim pravom, s tem da upošteva omejitve, predvidene po pravu države prosilke.

d – Clauses relating specifically to enforcement of disqualification

Article 49

1. Where a request for enforcement of a disqualification is made such disqualification imposed in the requesting State may be given effect in the requested State only if the law of the latter State allows for disqualification for the offence in question.

2. The court dealing with the case shall appraise the expediency of enforcing the disqualification in the territory of its own State.

Article 50

1. If the court orders enforcement of the disqualification it shall determine the duration thereof within the limits prescribed by its own law, but may not exceed the limits laid down in the sentence imposed in the requesting State.

2. The court may order the disqualification to be enforced in respect of some only of the rights whose loss or suspension has been pronounced.

Article 51

Article 11 shall not apply to disqualifications.

Article 52

The requested State shall have the right to restore to the person sentenced the rights of which he has been deprived in accordance with a decision taken in application of this section.

**Part III
International effects of European criminal judgments****Section 1 – *Ne bis in idem***

Article 53

1. A person in respect of whom a European criminal judgment has been rendered may for the same act neither be prosecuted nor sentenced nor subjected to enforcement of a sanction in another Contracting State:

- a if he was acquitted;
- b if the sanction imposed:
 - i has been completely enforced or is being enforced, or
 - ii has been wholly, or with respect to the part not enforced, the subject of a pardon or an amnesty, or
 - iii can no longer be enforced because of lapse of time;
- c if the court convicted the offender without imposing a sanction.

2. Nevertheless, a Contracting State shall not, unless it has itself requested the proceedings, be obliged to recognise the effect of *ne bis in idem* if the act which gave rise to the judgment was directed against either a person or an institution or any thing having public status in that State, or if the subject of the judgment had himself a public status in that State.

3. Furthermore, any Contracting State where the act was committed or considered as such according to the law of that State shall not be obliged to recognise the effect of *ne bis in idem* unless that State has itself requested the proceedings.

Article 54

If new proceedings are instituted against a person who in another Contracting State has been sentenced for the

d) Posebne določbe za izvršitev izgube pravice

49. člen

1. Kadar je zaprošena izvršitev izgube pravice, lahko takšna izguba pravice, izrečena v državi prosilki, učinkuje v zaprošeni državi samo, če njeno pravo dopušča izrek sankcije izgube pravice za takšno kaznivo dejanje.

2. Sodišče, ki obravnava zadevo, oceni primernost izvršitve sankcije izgube pravice na ozemlju svoje države.

50. člen

1. Če sodišče zaprošene države odredi izvršitev sankcije izgube pravice, določi njeno trajanje v mejah, predpisanih po svojem pravu, ne sme pa preseči meje, ki je določena v obsodbi, izrečeni v državi prosilki.

2. Sodišče lahko omeji izgubo pravice samo na del pravic, za katere je bila izrečena trajna ali začasna izguba pravic.

51. člen

Določbe 11. člena te konvencije se ne nanašajo na izgubo pravic.

52. člen

Zaprošena država ima pravico obsojencu vrniti pravice, ki so mu bile odvzete na podlagi odločbe, sprejeti z uporabo tega poglavja.

**III. del
Mednarodni učinki evropskih kazenskih sodb****1. poglavje – *Ne bis in idem***

53. člen

1. Oseba, za katero je bila izdana evropska kazenska sodba, se za isto dejanje ne sme preganjati ali obsoditi oziroma se zoper njo ne sme izvršiti sankcija v drugi državi pogodbenici:

- a) če je bila oproščena;
- b) če za izrečeno sankcijo velja:
 - i) da je v celoti prestana ali jo oseba prestaja, ali
 - ii) da je bila zanjo v celoti ali za še ne prestani del izrečena pomilostitev ali sprejeta amnestija, ali
 - iii) da ne more biti več izvršena zaradi zastaranja;

c) če je sodišče obsodilo storilca brez izreka sankcije.

2. Kljub temu država pogodbenica ni obvezana, razen če ni sama zahtevala pregona, priznati učinek *ne bis in idem*, če je bilo dejanje, na podlagi katerega je izdana sodba, storjeno proti neki osebi, ustanovi ali čemur koli, kar ima javni status v tej državi, ali če je oseba, ki ji je bilo sojeno, sama imela javni status v tej državi.

3. Poleg tega vsaka država pogodbenica, v kateri je bilo kaznivo dejanje storjeno ali kot tako obravnavano po pravu te države, ni dolžna priznati učinka *ne bis in idem*, razen če je sama zahtevala kazenski pregon.

54. člen

Če so uvedeni novi postopki proti osebi, ki je bila za isto dejanje že obsojena v drugi državi pogodbenici, se ves

same act, then any period of deprivation of liberty arising from the sentence enforced shall be deducted from the sanction which may be imposed.

Article 55

This section shall not prevent the application of wider domestic provisions relating to the effect of *ne bis in idem* attached to foreign criminal judgments.

Section 2 – Taking into consideration

Article 56

Each Contracting State shall legislate as it deems appropriate to enable its courts when rendering a judgment to take into consideration any previous European criminal judgment rendered for another offence after a hearing of the accused with a view to attaching to this judgment all or some of the effects which its law attaches to judgments rendered in its territory. It shall determine the conditions in which this judgment is taken into consideration.

Article 57

Each Contracting State shall legislate as it deems appropriate to allow the taking into consideration of any European criminal judgment rendered after a hearing of the accused so as to enable application of all or part of a disqualification attached by its law to judgments rendered in its territory. It shall determine the conditions in which this judgment is taken into consideration.

Part IV Final provisions

Article 58

1. This Convention shall be open to signature by the member States represented on the Committee of Ministers of the Council of Europe. It shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Secretary General of the Council of Europe.

2. The Convention shall enter into force three months after the date of the deposit of the third instrument of ratification or acceptance.

3. In respect of a signatory State ratifying or accepting subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification or acceptance.

Article 59

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any non-member State to accede thereto, provided that the resolution containing such invitation receives the unanimous agreement of the members of the Council who have ratified the Convention.

2. Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect three months after the date of its deposit.

Article 60

1. Any Contracting State may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, specify the territory or territories to which this Convention shall apply.

2. Any Contracting State may, when depositing its instrument of ratification, acceptance or accession or at any

čas odvzema prostosti zaradi izvršene obsodbe odšteje od sankcije, ki utegne biti izrečena.

55. člen

To poglavje ne preprečuje uporabe obširnejših določb domačega prava glede učinka načela *ne bis in idem* pri tujih kazenskih sodbah.

2. poglavje – Upoštevanje učinkov evropskih kazenskih sodb

56. člen

Država pogodbenica uzakoni določbe, ki se ji zdijo primerne, da svojim sodiščem pri izrekanju sodb omogoči upoštevanje prejšnjih evropskih kazenskih sodb, izrečenih po kontradiktornem postopku za drugo kaznivo dejanje, z namenom, da tem sodbam dodajo vse ali nekatere učinke, ki so po njenem pravu lahko dodani sodbam, izrečenim na njenem ozemlju. Država pogodbenica določi okoliščine, v katerih se ta sodba upošteva.

57. člen

Država pogodbenica uzakoni določbe, ki se ji zdijo primerne, da je mogoče upoštevati vsako evropsko kazensko sodbo, izrečeno po kontradiktornem postopku, tako da omogoči uporabo vseh ali delnih izgube pravic, ki jih po svojem pravu doda sodbam, izrečenim na njenem ozemlju. Država pogodbenica določi okoliščine, v katerih se ta sodba upošteva.

IV. del Končne določbe

58. člen

1. Ta konvencija je na voljo za podpis državam članicam, ki so zastopane v Odboru ministrov Sveta Evrope. Treba jo je ratificirati ali sprejeti. Listine o ratifikaciji ali sprejetju se deponirajo pri generalnem sekretarju Sveta Evrope.

2. Konvencija začne veljati tri mesece po dnevu deponiranja tretje listine o ratifikaciji ali sprejetju.

3. Za vsako državo podpisnico, ki konvencijo ratificira ali sprejme kasneje, začne konvencija veljati tri mesece po dnevu deponiranja njene listine o ratifikaciji ali sprejetju.

59. člen

1. Po začetku veljavnosti te konvencije lahko Odbor ministrov Sveta Evrope povabi vsako državo nečlanico, da k njej pristopi, pod pogojem, da so resolucijo, ki tako povabilo vsebuje, soglasno sprejele članice Sveta Evrope, ki so ratificirale konvencijo.

2. Pristopi se z deponiranjem listine o pristopu pri generalnem sekretarju Sveta Evrope, pristop pa začne veljati tri mesece po dnevu deponiranja te listine.

60. člen

1. Država pogodbenica lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju ali pristopu določi ozemlje ali ozemlja, za katera se bo uporabljala konvencija.

2. Država pogodbenica lahko ob deponiranju svoje listine o ratifikaciji, sprejetju ali pristopu ali kadarkoli kasneje z

later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 66 of this Convention.

Article 61

1. Any Contracting State may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, declare that it avails itself of one or more of the reservations provided for in Appendix I to this Convention.

2. Any Contracting State may wholly or partly withdraw a reservation it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary General of the Council of Europe which shall become effective as from the date of its receipt.

3. A Contracting State which has made a reservation in respect of any provision of this Convention may not claim the application of that provision by any other State; it may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

Article 62

1. Any Contracting State may at any time, by declaration addressed to the Secretary General of the Council of Europe, set out the legal provisions to be included in Appendices II or III to this Convention.

2. Any change of the national provisions listed in Appendices II or III shall be notified to the Secretary General of the Council of Europe if such a change renders the information in these appendices incorrect.

3. Any changes made in Appendices II or III in application of the preceding paragraphs shall take effect in each Contracting State one month after the date of their notification by the Secretary General of the Council of Europe.

Article 63

1. Each Contracting State shall, at the time of depositing its instrument of ratification, acceptance or accession, supply the Secretary General of the Council of Europe with relevant information on the sanctions applicable in that State and their enforcement, for the purposes of the application of this Convention.

2. Any subsequent change which renders the information supplied in accordance with the previous paragraph incorrect, shall also be notified to the Secretary General of the Council of Europe.

Article 64

1. This Convention affects neither the rights and the undertakings derived from extradition treaties and international multilateral conventions concerning special matters, nor provisions concerning matters which are dealt with in the present Convention and which are contained in other existing conventions between Contracting States.

2. The Contracting States may not conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, except in order to supplement its provisions or facilitate application of the principles embodied in it.

3. Should two or more Contracting States, however, have already established their relations in this matter on the basis of uniform legislation, or instituted a special system of

izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, razširi uporabo te konvencije na vsako drugo ozemlje ali ozemlja, navedena v tej izjavi, za katerih mednarodne odnose je pristojna ali v imenu katerih lahko prevzema obveznosti.

3. Vsako izjavo, dano v skladu s prejšnjim odstavkom, je mogoče umakniti za vsako v njej navedeno ozemlje po postopku, določenem v 66. členu te konvencije.

61. člen

1. Država pogodbenica lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju ali pristopu izjavi, da bo uveljavila enega ali več pridrzkov, predvidenih v Prilogi I te konvencije.

2. Država pogodbenica lahko v celoti ali delno umakne pridržek, ki ga je dala v skladu s prejšnjim odstavkom, z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, ki začne veljati z dnem, ko jo je ta prejel.

3. Država pogodbenica, ki je dala pridržek glede kake določbe te konvencije, ne sme zahtevati, da druga država uporablja to določbo; če pa je njen pridržek delen ali pogojen, sme zahtevati uporabo te določbe v obsegu, kot jo je sama sprejela.

62. člen

1. Država pogodbenica lahko kadar koli z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, določi pravne določbe, ki jih je treba vključiti v Prilogo II ali III te konvencije.

2. Vsako spremembo notranjih predpisov, naštetih v Prilogi II ali III, je treba uradno sporočiti generalnemu sekretarju Sveta Evrope, če postane podatek v teh prilogah s tako spremembo netočen.

3. Spremembe v Prilogi II ali III na podlagi prejšnjih odstavkov tega člena začnejo v vsaki državi pogodbenici veljati en mesec po dnevu, ko jih je uradno sporočil generalni sekretar Sveta Evrope.

63. člen

1. Država pogodbenica ob deponiranju svoje listine o ratifikaciji, sprejetju ali pristopu pošlje generalnemu sekretarju Sveta Evrope za namene uporabe te konvencije potrebne informacije o sankcijah, ki jih v tej državi uporabljajo, in o njihovem izvrševanju.

2. Vsako kasnejšo spremembo, zaradi katere postane informacija, dana v skladu s prejšnjim odstavkom, netočna, je prav tako treba uradno sporočiti generalnemu sekretarju Sveta Evrope.

64. člen

1. Ta konvencija ne vpliva niti na pravice niti na obveznosti iz meddržavnih pogodb o izročitvi in mednarodnih multilateralnih konvencij o posebnih vprašanjih niti na določbe glede zadev, ki jih obravnava ta konvencija in so vsebovane v drugih obstoječih konvencijah med pogodbenicami.

2. Države pogodbenice med seboj ne smejo sklepati dvostranskih ali mnogostranskih sporazumov o zadevah, ki jih obravnava ta konvencija, razen z namenom, da dopolnijo njene določbe ali olajšajo uporabo v njej vsebovanih načel.

3. Če pa so dve ali več držav pogodbenic že vzpostavile take odnose na podlagi enotne zakonodaje, ali so ustanovile svoj posebni sistem, ali če bi to storile v prihodnje,

their own, or should they in future do so, they shall be entitled to regulate those relations accordingly, notwithstanding the terms of this Convention.

4. Contracting States ceasing to apply the terms of this Convention to their mutual relations in this matter shall notify the Secretary General of the Council of Europe to that effect.

Article 65

The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Convention and shall do whatever is needed to facilitate a friendly settlement of any difficulty which may arise out of its execution.

Article 66

1. This Convention shall remain in force indefinitely.

2. Any Contracting State may, in so far as it is concerned, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

3. Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

Article 67

The Secretary General of the Council of Europe shall notify the member States represented on the Committee of Ministers of the Council, and any State that has acceded to this Convention, of:

- a) any signature;
- b) any deposit of an instrument of ratification, acceptance or accession;
- c) any date of entry into force of this Convention in accordance with Article 58 thereof;
- d) any declaration received in pursuance of Article 19, paragraph 2;
- e) any declaration received in pursuance of Article 44, paragraph 4;
- f) any declaration received in pursuance of Article 60;
- g) any reservation made in pursuance of the provisions of Article 61, paragraph 1, and the withdrawal of such reservation;
- h) any declaration received in pursuance of Article 62, paragraph 1, and any subsequent notification received in pursuance of that article, paragraph 2;
- i) any information received in pursuance of Article 63, paragraph 1, and any subsequent notification received in pursuance of that article, paragraph 2;
- j) any notification concerning the bilateral or multilateral agreements concluded in pursuance of Article 64, paragraph 2, or concerning uniform legislation introduced in pursuance of Article 64, paragraph 3;
- k) any notification received in pursuance of Article 66, and the date on which denunciation takes effect.

Article 68

This Convention and the declarations and notifications authorised thereunder shall apply only to the enforcement of decisions rendered after the entry into force of the Convention between the Contracting States concerned.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at The Hague, this 28th day of May 1970, in English and French, both texts being equally authoritative in

imajo pravico ustrezno urediti te odnose ne glede na določila te konvencije.

4. Države pogodbenice, ki prenehajo uporabljati določila te konvencije v medsebojnih odnosih v tej zadevi, morajo o tem uradno obvestiti generalnega sekretarja Sveta Evrope.

65. člen

Evropski odbor za kazenska vprašanja pri Svetu Evrope spremlja izvajanje te konvencije in stori vse potrebno za lažje prijateljsko urejanje vseh težav, do katerih bi lahko prišlo zaradi njenega izvajanja.

66. člen

1. Konvencija velja za nedoločen čas.

2. Vsaka država pogodbenica lahko odpove to konvencijo z uradnim obvestilom, naslovljenim na generalnega sekretarja Sveta Evrope.

3. Odpoved začne veljati šest mesecev po dnevu, ko je generalni sekretar prejel tako uradno obvestilo.

67. člen

Generalni sekretar Sveta Evrope uradno obvesti države članice, zastopane v Odboru ministrov Sveta, in vsako državo, ki je pristopila k tej konvenciji, o:

- a) vsakem podpisu;
- b) vsakem deponiranju listine o ratifikaciji, sprejetju ali pristopu;
- c) vsakem datumu začetka veljavnosti te konvencije po 58. členu konvencije;
- d) vsaki izjavi, prejeti na podlagi drugega odstavka 19. člena konvencije;
- e) vsaki izjavi, prejeti na podlagi četrtega odstavka 44. člena konvencije;
- f) vsaki izjavi, prejeti na podlagi 60. člena konvencije;
- g) vsakem pridržku, danem na podlagi določb prvega odstavka 61. člena konvencije, in o umiku takega pridržka;
- h) vsaki izjavi, prejeti na podlagi prvega odstavka 62. člena konvencije, in o vsakem kasnejšem uradnem obvestilu, prejetem na podlagi drugega odstavka istega člena;
- i) vsaki informaciji, prejeti na podlagi prvega odstavka 63. člena konvencije, in vsakem kasnejšem uradnem obvestilu, prejetem na podlagi drugega odstavka istega člena;
- j) vsakem uradnem obvestilu o dvostranskih ali mnogostranskih sporazumih, sklenjenih na podlagi drugega odstavka 64. člena konvencije, ali o enotni zakonodaji, uvedeni na podlagi tretjega odstavka 64. člena konvencije;
- k) vsakem uradnem obvestilu, prejetem na podlagi 66. člena konvencije in datumu, ko odpoved začne veljati.

68. člen

Konvencija in izjave ter uradna obvestila, ki so po njej dovoljena, se nanašajo samo na izvrševanje odločb, izdanih po začetku veljavnosti konvencije, med državami pogodbenicami, ki jih to zadeva.

V dokaz tega so podpisani, ki so za to pravilno pooblašeni, podpisali to konvencijo.

Sestavljeno v Haagu 28. maja 1970 v angleškem in francoskem jeziku, pri čemer sta besedili enako verodostoj-

a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.

ni, v enem izvodu, ki ostane shranjen v arhivu Sveta Evrope. Generalni sekretar Sveta Evrope pošlje overjene kopije vsaki državi podpisnici in vsaki državi, ki je pristopila k njej.

APPENDIX I

Each Contracting State may declare that it reserves the right:

a to refuse enforcement, if it considers that the sentence relates to a fiscal or religious offence;

b to refuse enforcement of a sanction for an act which according to the law of the requested State could have been dealt with only by an administrative authority;

c to refuse enforcement of a European criminal judgment which the authorities of the requesting State rendered on a date when, under its own law, the criminal proceedings in respect of the offence punished by the judgment would have been precluded by the lapse of time;

d to refuse the enforcement of sanctions rendered *in absentia* and *ordonnances pénales* or of one of these categories of decisions only;

e to refuse the application of the provisions of Article 8 where this State has an original competence and to recognise in these cases only the equivalence of acts interrupting or suspending time limitation which have been accomplished in the requesting State;

f to accept the application of Part III in respect of one of its two sections only.

PRILOGA I

Vsaka država pogodbenica lahko izjavi, da si pridržuje pravico:

a) da odkloni izvršitev, če sodi, da se obsodba nanaša na kršitev fiskalnih predpisov ali verskih norm;

b) da odkloni izvršitev sankcije za dejanje, ki bi ga po pravu zaprosene države lahko obravnaval samo upravni organ;

c) da odkloni izvršitev evropske kazenske sodbe, ki so jo organi države prosilke izdali na dan, ko bi po njenem pravu kazenski pregon za kaznivo dejanje iz te sodbe zastaral;

d) da odkloni izvršitev sodbe, izrečene v nenavzočnosti, ali kazenskih sklepov, ali samo ene od tovrstnih odločb;

e) da odkloni uporabo določb 8. člena te konvencije, kadar je ta država izvorno pristojna, in v takih primerih prizna samo enakovrednost dejanj, ki prekinejo ali odložijo zastaranja, in so bila storjena v državi prosilki;

f) da sprejme uporabo III. dela te konvencije samo za eno od njegovih dveh poglavij.

APPENDIX II

List of offences other than offences dealt with under criminal law

PRILOGA II

Seznam kršitev, ki niso kazniva dejanja po kazenskem pravu

APPENDIX III

List of *Ordonnances pénales*.

PRILOGA III

Seznam kazenskih sklepov

3. člen

Za izvajanje konvencije skrbi Ministrstvo za pravosodje.

4. člen

Ta zakon začne veljati naslednji dan po objavi v Uradnem listu Republike Slovenije – Mednarodne pogodbe.

Št. 700-01/00-60/1

Ljubljana, dne 26. julija 2000

Predsednik
Državnega zbora
Republike Slovenije
Janez Podobnik, dr. med. l. r.

102. Zakon o ratifikaciji Konvencije o vročitvi sodnih in zunajsodnih listin v civilnih ali gospodarskih zadevah v tujini (MKVLGC)

Na podlagi druge alineje prvega odstavka 107. člena in prvega odstavka 91. člena Ustave Republike Slovenije izdajam

U K A Z**O RAZGLASITVI ZAKONA O RATIFIKACIJI KONVENCIJE O VROČITVI SODNIH IN ZUNAJSDNIH LISTIN V CIVILNIH ALI GOSPODARSKIH ZADEVAH V TUJINI (MKVLGC)**

Razglašam Zakon o ratifikaciji Konvencije o vročitvi sodnih in zunajsodnih listin v civilnih ali gospodarskih zadevah v tujini (MKVLGC), ki ga je sprejel Državni zbor Republike Slovenije na seji 26. julija 2000.

Št. 001-22-156/00
Ljubljana, dne 3. avgusta 2000

Predsednik
Republike Slovenije
Milan Kučan l. r.

Z A K O N**O RATIFIKACIJI KONVENCIJE O VROČITVI SODNIH IN ZUNAJSDNIH LISTIN V CIVILNIH ALI GOSPODARSKIH ZADEVAH V TUJINI (MKVLGC)**

1. člen

Ratificira se Konvencija o vročitvi sodnih in zunajsodnih listin v civilnih ali gospodarskih zadevah v tujini, sklenjena v Haagu 15. novembra 1965.

2. člen

Konvencija se v izvirniku v angleškem jeziku in v prevodu v slovenskem jeziku glasi:

**C O N V E N T I O N
ON THE SERVICE ABROAD OF JUDICIAL AND
EXTRAJUDICIAL DOCUMENTS IN CIVIL OR
COMMERCIAL MATTERS**

(Concluded November 15, 1965)

The States signatory to the present Convention,
Desiring to create appropriate means to ensure that
judicial and extrajudicial documents to be served abroad
shall be brought to the notice of the addressee in sufficient
time,

Desiring to improve the organisation of mutual judicial
assistance for that purpose by simplifying and expediting
the procedure,

Have resolved to conclude a Convention to this effect
and have agreed upon the following provisions:

Article 1

The present Convention shall apply in all cases, in civil
or commercial matters, where there is occasion to transmit
a judicial or extrajudicial document for service abroad.

This Convention shall not apply where the address of
the person to be served with the document is not known.

**K O N V E N C I J A
O VROČITVI SODNIH IN ZUNAJSDNIH LISTIN
V CIVILNIH ALI GOSPODARSKIH ZADEVAH
V TUJINI**

(sklenjena 15. novembra 1965)

Države podpisnice te konvencije so se
v želji, da bi ustvarile primerne načine za zagotavljanje,
da se sodne in zunajsodne listine, ki jih treba vročiti v tujini,
pravočasno dostavijo naslovniku,

v želji, da bi izboljšale organizacijo medsebojne sodne
pomoči na tem področju s poenostavitvijo in pospešitvijo
postopka,

odločile v ta namen skleniti konvencijo in so se dogo-
vorile o teh določbah:

1. člen

Ta konvencija se v civilnih ali gospodarskih zadevah
uporablja v vseh primerih, kadar se pošiljajo sodne ali zunaj-
sodne listine za vročitev v tujini.

Ta konvencija se ne uporablja, kadar naslov osebe, ki ji
je treba listino vročiti, ni znan.

CHAPTER I – JUDICIAL DOCUMENTS

Article 2

Each Contracting State shall designate a Central Authority which will undertake to receive requests for service coming from other Contracting States and to proceed in conformity with the provisions of Articles 3 to 6.

Each State shall organise the Central Authority in conformity with its own law.

Article 3

The authority or judicial officer competent under the law of the State in which the documents originate shall forward to the Central Authority of the State addressed a request conforming to the model annexed to the present Convention, without any requirement of legalisation or other equivalent formality.

The document to be served or a copy thereof shall be annexed to the request. The request and the document shall both be furnished in duplicate.

Article 4

If the Central Authority considers that the request does not comply with the provisions of the present Convention it shall promptly inform the applicant and specify its objections to the request.

Article 5

The Central Authority of the State addressed shall itself serve the document or shall arrange to have it served by an appropriate agency, either –

a) by a method prescribed by its internal law for the service of documents in domestic actions upon persons who are within its territory, or

b) by a particular method requested by the applicant, unless such a method is incompatible with the law of the State addressed.

Subject to sub-paragraph (b) of the first paragraph of this Article, the document may always be served by delivery to an addressee who accepts it voluntarily.

If the document is to be served under the first paragraph above, the Central Authority may require the document to be written in, or translated into, the official language or one of the official languages of the State addressed.

That part of the request, in the form attached to the present Convention, which contains a summary of the document to be served, shall be served with the document.

Article 6

The Central Authority of the State addressed or any authority which it may have designated for that purpose, shall complete a certificate in the form of the model annexed to the present Convention.

The certificate shall state that the document has been served and shall include the method, the place and the date of service and the person to whom the document was delivered. If the document has not been served, the certificate shall set out the reasons which have prevented service.

I. POGLAVJE – SODNE LISTINE

2. člen

Vsaka država pogodbenica imenuje osrednji organ, ki je pristojen za sprejemanje zaprosil za vročitev iz drugih držav pogodbenic in ukrepa v skladu z določbami 3. do 6. člena.

Vsaka država organizira osrednji organ v skladu s svojim notranjim pravom.

3. člen

Pristojni organ ali sodni uradnik po pravu države izvora listin pošlje osrednjemu organu države naslovnice zaprosilo v skladu z vzorcem iz priloge k tej konvenciji, pri čemer ni potrebna overitev ali druga tej enaka formalnost.

Zaprosilu se priloži listina, ki jo je treba vročiti, ali njena kopija. Zaprosilo in listina se pošljeta v dvojniki.

4. člen

Če osrednji organ meni, da zaprosilo ni v skladu z določbami te konvencije, o tem takoj obvesti prosilca in navede svoje ugovore na zaprosilo.

5. člen

Osrednji organ zaprosene države vroči listino ali poskrbi, da je ustrezno vročena:

a) na način, ki je po njenem notranjem pravu predpisan za vročanje listin osebam, ki prebivajo na njenem ozemlju, ali

b) na poseben način, ki ga zahteva prosilec, če ta ni v nasprotju s pravom zaprosene države.

V zvezi s pododstavkom b) prvega odstavka tega člena se lahko listina vedno vroči z dostavo naslovniku, ki jo prostovoljno sprejme.

Če je listino treba vročiti v skladu s prvim odstavkom tega člena, lahko osrednji organ zahteva, da je listina napisana v uradnem jeziku ali enem od uradnih jezikov zaprosene države ali v tak jezik prevedena.

Del zaprosila, ki vsebuje povzetek listine za vročitev po vzorcu iz priloge k tej konvenciji, se vroči skupaj z listino.

6. člen

Osrednji organ zaprosene države ali drug pooblaščen organ izpolni potrdilo po vzorcu iz priloge k tej konvenciji.

V potrdilu je treba navesti, da je bila listina vročena, ter način, kraj in datum vročitve ter osebo, ki ji je bila listina dostavljena. Če listina ni bila vročena, morajo biti v potrdilu navedeni razlogi, ki so preprečili vročitev.

The applicant may require that a certificate not completed by a Central Authority or by a judicial authority shall be countersigned by one of these authorities.

The certificate shall be forwarded directly to the applicant.

Article 7

The standard terms in the model annexed to the present Convention shall in all cases be written either in French or in English. They may also be written in the official language, or in one of the official languages, of the State in which the documents originate.

The corresponding blanks shall be completed either in the language of the State addressed or in French or in English.

Article 8

Each Contracting State shall be free to effect service of judicial documents upon persons abroad, without application of any compulsion, directly through its diplomatic or consular agents.

Any State may declare that it is opposed to such service within its territory, unless the document is to be served upon a national of the State in which the documents originate.

Article 9

Each Contracting State shall be free, in addition, to use consular channels to forward documents, for the purpose of service, to those authorities of another Contracting State which are designated by the latter for this purpose.

Each Contracting State may, if exceptional circumstances so require, use diplomatic channels for the same purpose.

Article 10

Provided the State of destination does not object, the present Convention shall not interfere with –

- a) the freedom to send judicial documents, by postal channels, directly to persons abroad,
- b) the freedom of judicial officers, officials or other competent persons of the State of origin to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination,
- c) the freedom of any person interested in a judicial proceeding to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination.

Article 11

The present Convention shall not prevent two or more Contracting States from agreeing to permit, for the purpose of service of judicial documents, channels of transmission other than those provided for in the preceding Articles and, in particular, direct communication between their respective authorities.

Article 12

The service of judicial documents coming from a Contracting State shall not give rise to any payment or reim-

bursement. Prosilec lahko zahteva, da potrdilo, ki ga ni izpolnil osrednji ali sodni organ, sopodpiše eden od teh dveh organov.

Potrdilo se vrne neposredno prosilcu.

7 člen

Stalni izrazi iz vzorca v prilogi k tej konvenciji morajo biti vedno napisani v francoščini ali angleščini. Lahko so napisani tudi v uradnem jeziku ali v enem od uradnih jezikov države, iz katere listine izvirajo.

Ustrezna prazna mesta v obrazcu se izpolnijo v jeziku zaprosene države ali v francoščini ali v angleščini.

8. člen

Država pogodbenica lahko sodne listine vroči osebam v tujini neposredno po svojih diplomatskih ali konzularnih predstavnikih, vendar brez vsakršne prisile.

Vsaka država lahko izjavi, da nasprotuje taki vročitvi na svojem ozemlju, razen če se listina vroča državljanu države, iz katere listina izvira.

9. člen

Država pogodbenica lahko za vročitev uporabi tudi konzularne poti za pošiljanje listin organom druge države pogodbenice, ki jih je ta država za to določila.

V izjemnih okoliščinah lahko država pogodbenica v ta namen uporabi diplomatske poti.

10. člen

Če namembna država temu ne nasprotuje, konvencija ne vpliva na:

- a) pravico, da se sodne listine pošljejo po pošti neposredno osebi v tujini,
- b) pravico sodnih uradnikov, državnih uradnikov ali drugih pristojnih oseb v državi izvora, da vročijo sodne listine neposredno po sodnih uradnikih, državnih uradnikih ali drugih pristojnih osebah namembne države,
- c) pravico vsake osebe, ki ima interes v sodnem postopku, da vroči sodne listine neposredno po sodnih uradnikih, državnih uradnikih ali drugih pristojnih osebah namembne države.

11. člen

Ta konvencija ne preprečuje dogovora dveh ali več držav pogodbenic, da poleg načinov iz predhodnih členov dovolijo še druge načine vročanja sodnih listin, zlasti z neposrednimi stiki med njihovimi pristojnimi organi.

12. člen

Pri vročitvi sodnih listin, ki prihajajo iz določene države pogodbenice, zaprosena država ne sme dopustiti nobe-

bursment of taxes or costs for the services rendered by the State addressed.

The applicant shall pay or reimburse the costs occasioned by-

- a) the employment of a judicial officer or of a person competent under the law of the State of destination,
- b) the use of a particular method of service.

Article 13

Where a request for service complies with the terms of the present Convention, the State addressed may refuse to comply therewith only if it deems that compliance would infringe its sovereignty or security.

It may not refuse to comply solely on the ground that, under its internal law, it claims exclusive jurisdiction over the subject-matter of the action or that its internal law would not permit the action upon which the application is based.

The Central Authority shall, in case of refusal, promptly inform the applicant and state the reasons for the refusal.

Article 14

Difficulties which may arise in connection with the transmission of judicial documents for service shall be settled through diplomatic channels.

Article 15

Where a writ of summons or an equivalent document had to be transmitted abroad for the purpose of service, under the provisions of the present Convention, and the defendant has not appeared, judgment shall not be given until it is established that -

a) the document was served by a method prescribed by the internal law of the State addressed for the service of documents in domestic actions upon persons who are within its territory, or

b) the document was actually delivered to the defendant or to his residence by another method provided for by this Convention, and that in either of these cases the service or the delivery was effected in sufficient time to enable the defendant to defend.

Each Contracting State shall be free to declare that the judge, notwithstanding the provisions of the first paragraph of this Article, may give judgment even if no certificate of service or delivery has been received, if all the following conditions are fulfilled-

a) the document was transmitted by one of the methods provided for in this Convention,

b) a period of time of not less than six months, considered adequate by the judge in the particular case, has elapsed since the date of the transmission of the document,

c) no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed.

Notwithstanding the provisions of the preceding paragraphs the judge may order, in case of urgency, any provisional or protective measures.

nega plačila ali povračila pristojbin ali stroškov za svoje storitve.

Prosilec plača ali povrne stroške:

- a) storitve sodnega uradnika ali osebe, pristojne po pravu namembne države,
- b) uporabe določenega načina vročitve.

13. člen

Kadar je zaprosilo za vročitev v skladu z določbami te konvencije, lahko zaprosena država vročitev zavrne, če meni, da bi izpolnitev zaprosila pomenila kršitev njene suverenosti ali varnosti.

Zaprosila ne sme zavrniti samo zato, ker trdi, da ima po svojem notranjem pravu izključno sodno pristojnost glede zadeve ali da njeno notranje pravo ne dovoljuje postopka, na katerem temelji zaprosilo.

V primeru zavrnitve osrednji organ o tem takoj obvesti prosilca in navede razloge za zavrnitev.

14. člen

Težave, ki nastanejo v zvezi s pošiljanjem sodnih listin za vročitev, se rešujejo po diplomatski poti.

15. člen

Kadar je treba zaradi vročitve poslati v tujino vabilo ali enakovredno listino v skladu z določbami te konvencije in toženec ne pride na obravnavo, se sodba ne izreče, dokler se ne ugotovi:

a) ali je bila listina vročena na način, ki je predpisan po pravu zaprosene države za vročanje listin osebam, ki so na njenem ozemlju, oziroma

b) ali je bila listina dejansko dostavljena tožencu ali v njegovo prebivališče na drug način, predviden s to konvencijo, in da je bila v obeh primerih vročena ali dostavljena dovolj zgodaj, da lahko toženec pripravi svojo obrambo.

Država pogodbenica lahko izjavi, da lahko sodnik ne glede na določbe prvega odstavka tega člena izreče sodbo, tudi če ni prejel potrdila o vročitvi ali dostavi, če so izpolnjeni naslednji pogoji:

a) da je bila listina poslana na enega od načinov, predvidenih v tej konvenciji,

b) da je od datuma odpošiljanja listine preteklo najmanj šest mesecev, če sodnik meni, da je to v določeni zadevi dovolj dolgo obdobje,

c) da kljub razumnim prizadevanjem za pridobitev potrdila po pristojnih organih zaprosene države ni bilo prejeta nikakršno potrdilo.

Ne glede na določbe prejšnjih odstavkov lahko sodnik v nujnem primeru odredi začasne ali zaščitne ukrepe.

Article 16

When a writ of summons or an equivalent document had to be transmitted abroad for the purpose of service, under the provisions of the present Convention, and a judgment has been entered against a defendant who has not appeared, the judge shall have the power to relieve the defendant from the effects of the expiration of the time for appeal from the judgment if the following conditions are fulfilled –

a) the defendant, without any fault on his part, did not have knowledge of the document in sufficient time to defend, or knowledge of the judgment in sufficient time to appeal, and

b) the defendant has disclosed a *prima facie* defence to the action on the merits.

An application for relief may be filed only within a reasonable time after the defendant has knowledge of the judgment.

Each Contracting State may declare that the application will not be entertained if it is filed after the expiration of a time to be stated in the declaration, but which shall in no case be less than one year following the date of the judgment.

This Article shall not apply to judgments concerning status or capacity of persons.

CHAPTER II – EXTRAJUDICIAL DOCUMENTS

Article 17

Extrajudicial documents emanating from authorities and judicial officers of a Contracting State may be transmitted for the purpose of service in another Contracting State by the methods and under the provisions of the present Convention.

CHAPTER III – GENERAL CLAUSES

Article 18

Each Contracting State may designate other authorities in addition to the Central Authority and shall determine the extent of their competence.

The applicant shall, however, in all cases, have the right to address a request directly to the Central Authority.

Federal States shall be free to designate more than one Central Authority.

Article 19

To the extent that the internal law of a Contracting State permits methods of transmission, other than those provided for in the preceding Articles, of documents coming from abroad, for service within its territory, the present Convention shall not affect such provisions.

Article 20

The present Convention shall not prevent an agreement between any two or more Contracting States to dispense with –

16. člen

Kadar je treba zaradi vročitve poslati v tujino vabilo ali enakovredno listino v skladu z določbami te konvencije in je bila proti tožencu, ki se ni udeležil obravnave, izrečena sodba, lahko sodnik tožencu dovoli pritožbo kljub poteku roka za pritožbo iz sodbe, če so izpolnjeni naslednji pogoji:

a) da toženec ni po svoji krivdi zvedel za listino pravočasno, da bi lahko pripravil obrambo, ali ni pravočasno zvedel za sodbo, da bi se lahko pritožil, in

b) da je toženec v obrambo predložil zadosten dokaz glede same vsebine zadeve.

Prošnja za dovolitev pritožbe se lahko vloži v razumnem roku po tem, ko je toženec zvedel za sodbo.

Vsaka država pogodbenica lahko izjavi, da take prošnje ne bo obravnavala, če je vložena po preteku roka, ki ga navede v izjavi, vendar pa ta v nobenem primeru ne sme biti krajši od enega leta od datuma sodbe.

Ta člen se ne uporablja za sodbe v zvezi s statusom ali poslovno sposobnostjo oseb.

II. POGLAVJE – ZUNAJSDONE LISTINE

17. člen

Zunajsodne listine organov in sodnih uradnikov države pogodbenice se lahko pošiljajo za vročitev v drugi državi pogodbenici na načine in po določbah te konvencije.

III. POGLAVJE – SPLOŠNE DOLOČBE

18. člen

Država pogodbenica lahko poleg osrednjega organa imenuje še druge organe in določi obseg njihovih pristojnosti.

Prosilec pa ima v vseh primerih pravico nasloviti zaprosilo neposredno na osrednji organ.

Zvezne države lahko imenujejo več kot en osrednji organ.

19. člen

Kadar notranje pravo države pogodbenice poleg načinov iz prejšnjih členov dovoljuje še druge načine pošiljanja listin iz tujine za vročitev na njihovem ozemlju, ta konvencija na take določbe ne vpliva.

20. člen

Ta konvencija ne preprečuje dogovora med dvema ali več državami pogodbenicami, da ni treba:

- a) the necessity for duplicate copies of transmitted documents as required by the second paragraph of Article 3,
- b) the language requirements of the third paragraph of Article 5 and Article 7,
- c) the provisions of the fourth paragraph of Article 5,
- d) the provisions of the second paragraph of Article 12.

Article 21

Each Contracting State shall, at the time of the deposit of its instrument of ratification or accession, or at a later date, inform the Ministry of Foreign Affairs of the Netherlands of the following –

- a) the designation of authorities, pursuant to Articles 2 and 18,
- b) the designation of the authority competent to complete the certificate pursuant to Article 6,
- c) the designation of the authority competent to receive documents transmitted by consular channels, pursuant to Article 9.

Each Contracting State shall similarly inform the Ministry, where appropriate, of –

- a) opposition to the use of methods of transmission pursuant to Articles 8 and 10,
- b) declarations pursuant to the second paragraph of Article 15 and the third paragraph of Article 16,
- c) all modifications of the above designations, oppositions and declarations.

Article 22

Where Parties to the present Convention are also Parties to one or both of the Conventions on civil procedure signed at The Hague on 17th July 1905, and on 1st March 1954, this Convention shall replace as between them Articles 1 to 7 of the earlier Conventions.

Article 23

The present Convention shall not affect the application of Article 23 of the Convention on civil procedure signed at The Hague on 17th July 1905, or of Article 24 of the Convention on civil procedure signed at The Hague on 1st March 1954.

These Articles shall, however, apply only if methods of communication, identical to those provided for in these Conventions, are used.

Article 24

Supplementary agreements between Parties to the Conventions of 1905 and 1954 shall be considered as equally applicable to the present Convention, unless the Parties have otherwise agreed.

Article 25

Without prejudice to the provisions of Articles 22 and 24, the present Convention shall not derogate from Conventions containing provisions on the matters governed by this Convention to which the Contracting States are, or shall become, Parties.

- a) pošiljati listin v dvojniki, kot se zahteva v drugem odstavku 3. člena,
- b) izpolniti pogojev glede jezika iz tretjega odstavka 5. člena in iz 7. člena,
- c) izpolniti določb četrtega odstavka 5. člena,
- d) izpolniti določb drugega odstavka 12. člena.

21. člen

Država pogodbenica ob deponiranju svoje listine o ratifikaciji ali pristopu ali kasneje obvesti Ministrstvo za zunanje zadeve Nizozemske o:

- a) imenovanju organov iz 2. in 18. člena,
 - b) imenovanju pristojnega organa za izpolnjevanje potrdila iz 6. člena,
 - c) imenovanju pristojnega organa za prejemanje listin, poslanih po konzularni poti v skladu z 9. členom.
- Po potrebi država pogodbenica obvesti ministrstvo tudi o:
- a) nasprotovanju uporabi načina pošiljanja iz 8. in 10. člena,
 - b) izjavah v skladu z drugim odstavkom 15. člena in s tretjim odstavkom 16. člena,
 - c) vseh spremembah prej omenjenih imenovanj, nasprotovanj in izjav.

22. člen

Če so pogodbenice te konvencije tudi pogodbenice ene ali obeh konvencij o civilnem postopku, podpisanih v Haagu 17. julija 1905 in 1. marca 1954, ta konvencija v odnosih med njimi nadomesti 1. do 7. člen prejšnjih konvencij.

23. člen

Ta konvencija ne vpliva na uporabo 23. člena Konvencije o civilnem postopku, podpisane v Haagu 17. julija 1905, in 24. člena Konvencije o civilnem postopku, podpisane v Haagu 1. marca 1954.

Ta člena pa se uporabljata le, če se uporabljajo načini komuniciranja, ki so enaki tistim, predvidenim v teh dveh konvencijah.

24. člen

Dodatni sporazumi med pogodbenicami konvencij iz let 1905 in 1954 se štejejo za enakovredne tej konvenciji, razen če se pogodbenice niso drugače dogovorile.

25. člen

Ta konvencija ne sme odstopati od konvencij, ki vsebujejo določbe o zadevah, ki jih ureja ta konvencija in katerih pogodbenice so ali bodo postale države pogodbenice, kar pa ne vpliva na uporabo določb 22. in 24. člena.

Article 26

The present Convention shall be open for signature by the States represented at the Tenth Session of the Hague Conference on Private International Law.

It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Article 27

The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 26.

The Convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

Article 28

Any State not represented at the Tenth Session of the Hague Conference on Private International Law may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 27. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for such a State in the absence of any objection from a State, which has ratified the Convention before such deposit, notified to the Ministry of Foreign Affairs of the Netherlands within a period of six months after the date on which the said Ministry has notified it of such accession.

In the absence of any such objection, the Convention shall enter into force for the acceding State on the first day of the month following the expiration of the last of the periods referred to in the preceding paragraph.

Article 29

Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State concerned.

At any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for the territories mentioned in such an extension on the sixtieth day after the notification referred to in the preceding paragraph.

Article 30

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 27, even for States which have ratified it or acceded to it subsequently.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five year period.

26. člen

Ta konvencija je na voljo za podpis državam, ki so se udeležile desetega zasedanja Haaške konference o mednarodnem zasebnem pravu.

To konvencijo je treba ratificirati, listine o ratifikaciji pa se deponirajo pri Ministrstvu za zunanje zadeve Nizozemske.

27. člen

Ta konvencija začne veljati šestdeseti dan po deponiranju tretje listine o ratifikaciji iz drugega odstavka 26. člena.

Konvencija začne veljati za vsako državo podpisnico, ki jo ratificira kasneje, šestdeset dni po deponiranju njene listine o ratifikaciji.

28. člen

Država, ki se ni udeležila desetega zasedanja Haaške konference o mednarodnem zasebnem pravu, lahko k tej konvenciji pristopi po začetku njene veljavnosti v skladu s prvim odstavkom 27. člena. Listina o pristopu se deponira pri Ministrstvu za zunanje zadeve Nizozemske.

Konvencija začne veljati za tako državo, če nobena od držav, ki so konvencijo ratificirale pred tem deponiranjem, v šestih mesecih od obvestila Ministrstva za zunanje zadeve Nizozemske o takem pristopu ministrstvu ne sporoči ugovora.

Če ni nobenega ugovora, začne konvencija veljati za državo, ki h konvenciji pristopi, prvi dan meseca po poteku zadnjega roka iz prejšnjega odstavka.

29. člen

Vsaka država lahko ob podpisu, ratifikaciji ali pristopu izjavi, da se uporaba te konvencije razširi tudi na vsa ozemlja, za katerih mednarodne odnose je odgovorna, ali na eno ali več takih ozemelj. Izjava začne veljati na datum začetka veljavnosti konvencije za to državo.

Ministrstvo za zunanje zadeve Nizozemske se obvesti o taki razširitvi uporabe tudi kadar koli po začetku veljavnosti te konvencije.

Konvencija začne veljati za ozemlja, omenjena v izjavi o razširitvi uporabe, šestdeseti dan po obvestilu iz prejšnjega odstavka.

30. člen

Konvencija velja pet let, šteto od datuma začetka veljavnosti iz prvega odstavka 27. člena, in sicer tudi za države, ki so jo kasneje ratificirale ali k njej pristopile.

Če ni odpovedana, se konvencija molče podaljša vsakih pet let.

Vsaka odpoved se sporoči Ministrstvu za zunanje zadeve Nizozemske vsaj šest mesecev pred koncem petletnega obdobja.

It may be limited to certain of the territories to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 31

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 26, and to the States which have acceded in accordance with Article 28, of the following –

- a) the signatures and ratifications referred to in Article 26;
- b) the date on which the present Convention enters into force in accordance with the first paragraph of Article 27;
- c) the accessions referred to in Article 28 and the dates on which they take effect;
- d) the extensions referred to in Article 29 and the dates on which they take effect;
- e) the designations, oppositions and declarations referred to in Article 21;
- f) the denunciations referred to in the third paragraph of Article 30.

In witness whereof the undersigned, being duly authorised thereto, have signed the present Convention.

Done at The Hague, on the 15th day of November, 1965, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Netherlands, and of which a certified copy shall be sent, through the diplomatic channel, to each of the States represented at the Tenth Session of the Hague Conference on Private International Law.

FORMS (REQUEST AND CERTIFICATE)
SUMMARY OF THE DOCUMENT TO BE SERVED
(annexes provided for Articles 3, 5, 6 and 7)

Odpoved se lahko omeji na določena ozemlja, za katera se konvencija uporablja.

Odpoved velja samo za državo, ki pošlje obvestilo o odpovedi. Za druge države članice pogodbenice konvencija ostane v veljavi.

31. člen

Ministrstvo za zunanje zadeve Nizozemske obvesti države iz 26. člena in države, ki so k njej pristopile v skladu z 28. členom o:

- a) podpisih in ratifikacijah iz 26. člena;
- b) datumu začetka veljavnosti te konvencije v skladu s prvim odstavkom 27. člena;
- c) pristopih iz 28. člena in datumih njihovega začetka veljavnosti;
- d) razširitvah uporabe iz 29. člena in datumih njihovega začetka veljavnosti;
- e) imenovanjih, nasprotovanjih in izjavah iz 21. člena;
- f) odpovedih iz tretjega odstavka 30. člena.

V potrditev tega so spodaj podpisani, ki so bili za to pravilno pooblašteni, podpisali to konvencijo.

Sestavljeno v Haagu 15. novembra 1965 v enem izvorniku, katerega besedilo v angleščini in francoščini sta enako verodostojni, ki se deponira v arhivu Vlade Nizozemske in katerega overjena kopija se po diplomatski poti pošlje vsaki državi, ki se je udeležila desetega zasedanja Haaške konference o mednarodnem zasebnem pravu.

OBRAZCI (ZAPROSILO IN POTRDILO)
POVZETEK VSEBINE LISTINE ZA VROČITEV
(priloge iz 3., 5., 6. in 7. člena)

ANNEX TO THE CONVENTION
Forms
REQUEST
FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters,
signed at The Hague, the 15th of November 1965.

Identity and address of the applicant
--

Address of receiving authority

The undersigned applicant has the honour to transmit - in duplicate - the documents listed below and, in conformity with Article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e.,
(identity and address).....
.....
.....

- a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention*.
- b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of Article 5)*:
.....
.....
- c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of Article 5)*.

The authority is requested to return or to have returned to the applicant a copy of the documents - and of the annexes* - with a certificate as provided on the reverse side.

List of documents

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Done at , the
Signature and/or stamp.

* Delete if inappropriate.

PRILOGA H KONVENCIJI*Obrazci***ZAPROSILO****ZA VROČITEV SODNIH ALI ZUNAJSDNIH LISTIN V TUJINI**

Konvencija o vročitvi sodnih in zunajsodnih listin v civilnih ali gospodarskih zadevah
v tujini,

podpisana v Haagu 15. novembra 1965

Ime in naslov prosilca	Naslov organa prejemnika
------------------------	--------------------------

Podpisani prosilec imam čast v dvojniku poslati spodaj naštete listine in v skladu s 5. členom omenjene konvencije prosim za takojšnjo vročitev listin naslovniku:

(ime in naslov)

.....

a) v skladu s pododstavkom (a) prvega odstavka 5. člena konvencije;*

b) na naslednji način (pododstavek (b) prvega odstavka 5. člena);*

.....

.....

c) z izročitvijo naslovniku, če jih sprejme prostovoljno (drugi odstavek 5. člena).*

Pristojni organ prosim, da mi vrne ali zagotovi vračilo kopije listin in prilog*
skupaj z izpolnjenim potrdilom na hrbtni strani.

Seznam listin

.....
.....
.....

V dne.....

Podpis in/ali žig:

* Neustrezno črtajte.

Reverse of the request
CERTIFICATE

The undersigned authority has the honour to certify, in conformity with Article 6 of the Convention,

1) that the document has been served*

- the (date)
- at (place, street, number)

.....
- in one of the following methods authorised by Article 5:

a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention*.

b) in accordance with the following particular method*:

.....
c) by delivery to the addressee, who accepted it voluntarily* .

The documents referred to in the request have been delivered to:

- (identity and description of person)

.....
- relationship to the addressee (family, business or other):

.....
2) that the document has not been served, by reason of the following facts*:

.....
In conformity with the second paragraph of Article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement*.

Annexes

Documents returned:

.....
In appropriate cases, documents establishing the service:.....

.....
Done at , the
Signature and/or stamp.

* Delete if inappropriate.

*Hrbtna stran zaprosila***POTRDILO**

Podpisani pristojni organ imam v skladu s 6. členom konvencije čast potrditi:

- 1) da je bila listina vročena*
 - dne
 - v (kraj, ulica, hišna številka).....
 - na enega od naslednjih načinov iz 5. člena:
 - a) v skladu z določbami pododstavka (a) prvega odstavka 5. člena konvencije,*
 - b) na naslednji posebni način:*
 - c) z dostavo naslovníku, ki jo je prostovoljno sprejel.*

- Listine iz zaprosila so bile dostavljene:
- (ime in opis osebe).....
 - razmerje do naslovníka (družinsko, poslovno ali drugo):

- 2) da listina ni bila vročena zaradi naslednjih dejstev:*
.....
.....

V skladu z drugim odstavkom 12. člena konvencije prosimo prosilca, da plača ali povrne stroške v skladu s priloženo specifikacijo stroškov.*

Priloge

Vrnjene listine:

Kadar je ustrezno, listine, ki dokazujejo vročitev:

V dne.....

Podpis in/ali žig:

* Neustrezno črtajte.

SUMMARY OF THE DOCUMENT TO BE SERVED

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed at The Hague, the 15th of November 1965.

(Article 5, fourth paragraph)

Name and address of the requesting authority:.....

Particulars of the parties*.....

JUDICIAL DOCUMENT**

Nature and purpose of the document:.....

Nature and purpose of the proceedings and, where appropriate, the amount in dispute:.....

Date and place for entering appearance**:.....

Court which has given judgment**:.....

Date of judgment**:.....

Time-limits stated in the document**:.....

EXTRAJUDICIAL DOCUMENT**

Nature and purpose of the document:.....

Time-limits stated in the document**:.....

* If appropriate, identity and address of the person interested in the transmission of the document.

** Delete if inappropriate.

POVZETEK VSEBINE LISTINE ZA VROČITEV

Konvencija o vročitvi sodnih in zunajsodnih listin v civilnih ali gospodarskih zadevah
v tujini,
podpisana v Haagu 15. novembra 1965
(četrti odstavek 5. člena)

Ime in naslov organa prosilca
.....
.....
Podatki o strankah:*
.....
.....

SODNA LISTINA**

Vrsta in namen listine:
.....
.....
Vrsta in namen postopkov, in če je to ustrezno, sporni znesek:
.....
.....
Datum in kraj prve obravnave:
.....
Sodišče, ki je izreklo sodbo:**
.....
Datum sodbe:**
.....
Roki, navedeni v listini:**
.....

ZUNAJSDNA LISTINA**

Vrsta in namen listine:
.....
.....
Roki, navedeni v listini:**
.....

* Če je primerno, ime in naslov osebe, ki je zainteresirana, da se listina pošlje.

** Neustezno črtajte.

3. člen

Za izvajanje konvencije skrbi Ministrstvo za pravosodje.

4. člen

Ta zakon začne veljati naslednji dan po objavi v Uradnem listu Republike Slovenije – Mednarodne pogodbe.

Št. 700-01/00-61/1

Ljubljana, dne 26. julija 2000

Predsednik
Državnega zbora
Republike Slovenije
Janez Podobnik, dr. med. l. r.

103. Zakon o ratifikaciji Konvencije o pridobivanju dokazov v civilnih ali gospodarskih zadevah v tujini (MKPDCG)

Na podlagi druge alineje prvega odstavka 107. člena in prvega odstavka 91. člena Ustave Republike Slovenije izdajam

U K A Z**O RAZGLASITVI ZAKONA O RATIFIKACIJI KONVENCIJE O PRIDOBIVANJU DOKAZOV V CIVILNIH ALI GOSPODARSKIH ZADEVAH V TUJINI (MKPDCG)**

Razgllašam Zakon o ratifikaciji Konvencije o pridobivanju dokazov v civilnih ali gospodarskih zadevah v tujini (MKPDCG), ki ga je sprejel Državni zbor Republike Slovenije na seji 26. julija 2000.

Št. 001-22-155/00
Ljubljana, dne 3. avgusta 2000

Predsednik
Republike Slovenije
Milan Kučan l. r.

Z A K O N**O RATIFIKACIJI KONVENCIJE O PRIDOBIVANJU DOKAZOV V CIVILNIH ALI GOSPODARSKIH ZADEVAH V TUJINI (MKPDCG)**

1. člen

Ratificira se Konvencija o pridobivanju dokazov v civilnih ali gospodarskih zadevah v tujini, sklenjena v Haagu 18. marca 1970.

2. člen

Konvencija se v izvirmiku v angleškem jeziku in v prevodu v slovenskem jeziku glasi:

**CONVENTION
ON THE TAKING OF EVIDENCE ABROAD IN CIVIL
OR COMMERCIAL MATTERS**

(Concluded March 18, 1970)

The States signatory to the present Convention,
Desiring to facilitate the transmission and execution of
Letters of Request and to further the accommodation of the
different methods which they use for this purpose,

Desiring to improve mutual judicial co-operation in civil or
commercial matters,

Have resolved to conclude a Convention to this effect and
have agreed upon the following provisions:

CHAPTER I – LETTERS OF REQUEST

Article 1

In civil or commercial matters a judicial authority of a
Contracting State may, in accordance with the provisions of
the law of that State, request the competent authority of another
Contracting State, by means of a Letter of Request, to obtain
evidence, or to perform some other judicial act.

A Letter shall not be used to obtain evidence which is not
intended for use in judicial proceedings, commenced or contemplated.

The expression "other judicial act" does not cover the
service of judicial documents or the issuance of any process
by which judgments or orders are executed or enforced, or
orders for provisional or protective measures.

**KONVENCIJA
O PRIDOBIVANJU DOKAZOV V CIVILNIH ALI
GOSPODARSKIH ZADEVAH V TUJINI**

(sklenjena 18. marca 1970)

Države podpisnice te konvencije so se
v želji, da bi olajšale pošiljanje in izvrševanje zaprosil ter
pospešile poenotenje različnih postopkov, ki jih v ta namen
uporabljajo,

v želji, da bi povečale učinkovitost medsebojnega pravne-
ga sodelovanja v civilnih ali gospodarskih zadevah,

odločile, da bodo v ta namen sklenile konvencijo in so se
dogovorile o naslednjih določbah:

I. POGLAVJE – ZAPROSILA

1. člen

V civilnih ali gospodarskih zadevah lahko sodni organ
države pogodbenice v skladu z določbami svojega prava z
zaprosilom zaprosi pristojni organ druge države pogodbenice,
da zanj pridobi dokaze ali opravi kakšno drugo dejanje sodne-
ga postopka.

Zaprosilo se ne sme uporabiti za pridobivanje dokazov, ki
niso namenjeni za uporabo v začelih ali predvidenih sodnih
postopkih.

Izraz "drugo dejanje sodnega postopka" ne vključuje vro-
čitve sodnih listin ali izdaje sodnih pozivov, s katerimi se izvršu-
jejo ali izpopolnjujejo sodne odločbe ali nalogi, niti nalogov za
začasne ali zaščitne ukrepe.

Article 2

A Contracting State shall designate a Central Authority which will undertake to receive Letters of Request coming from a judicial authority of another Contracting State and to transmit them to the authority competent to execute them. Each State shall organize the Central Authority in accordance with its own law.

Letters shall be sent to the Central Authority of the State of execution without being transmitted through any other authority of that State.

Article 3

A Letter of Request shall specify-

- a) the authority requesting its execution and the authority requested to execute it, if known to the requesting authority;
- b) the names and addresses of the parties to the proceedings and their representatives, if any;
- c) the nature of the proceedings for which the evidence is required, giving all necessary information in regard thereto;
- d) the evidence to be obtained or other judicial act to be performed.

Where appropriate, the Letter shall specify, *inter alia* –

- e) the names and addresses of the persons to be examined;
- f) the questions to be put to the persons to be examined or a statement of the subject-matter about which they are to be examined;
- g) the documents or other property, real or personal, to be inspected;
- h) any requirement that the evidence is to be given on oath or affirmation, and any special form to be used;
- i) any special method or procedure to be followed under Article 9.

A Letter may also mention any information necessary for the application of Article 11.

No legalization or other like formality may be required.

Article 4

A Letter of Request shall be in the language of the authority requested to execute it or be accompanied by a translation into that language.

Nevertheless, a Contracting State shall accept a Letter in either English or French, or a translation into one of these languages, unless it has made the reservation authorized by Article 33.

A Contracting State which has more than one official language and cannot, for reasons of internal law, accept Letters in one of these languages for the whole of its territory, shall, by declaration, specify the language in which the Letter or translation thereof shall be expressed for execution in the specified parts of its territory. In case of failure to comply with this declaration, without justifiable excuse, the costs of translation into the required language shall be borne by the State of origin.

A Contracting State may, by declaration, specify the language or languages other than those referred to in the preceding paragraphs, in which a Letter may be sent to its Central Authority.

Any translation accompanying a Letter shall be certified as correct, either by a diplomatic officer or consular agent or by a sworn translator or by any other person so authorized in either State.

Article 5

If the Central Authority considers that the request does not comply with the provisions of the present Convention, it shall promptly inform the authority of the State of origin which transmitted the Letter of Request, specifying the objections to the Letter.

2. člen

Vsaka država pogodbenica imenuje osrednji organ, ki bo odgovoren za sprejemanje zaprosil, ki jih pošlje sodni organ druge države pogodbenice, in za pošiljanje teh zaprosil organu, pristojnemu za njihovo izvršitev. Osrednji organ deluje v skladu z njenim notranjim pravom.

Zaprosila se pošljejo osrednjemu organu države izvršitve, in to brez posredovanja drugih organov te države.

3. člen

V zaprosilu morajo biti navedeni:

- a) organ, ki prosi za izvršitev, in zaprošeni organ, če ga prosilec pozna;
- b) imena in naslovi strank v postopku in njihovih zastopnikov, če jih imajo;
- c) vrsta postopka, za katerega se prosi dokazilo, z navedbo vseh potrebnih informacij v zvezi s tem;
- d) dokazi, ki jih je treba pridobiti, ali druga dejanja sodnega postopka, ki jih je treba opraviti.

Kadar je to primerno, morajo biti v zaprosilu med drugim podrobneje navedeni:

- e) imena in naslovi oseb, ki naj se zaslišijo;
- f) vprašanja, ki naj se zastavijo zaslišanim osebam, ali dejstva, o katerih morajo biti te osebe zaslišane;
- g) listine ali drugo nepremično ali osebno premoženje, ki naj se pregleda;
- h) morebitna zahteva, da se dokaz da pod prisego ali izjavo, in poseben obrazec, ki naj se v ta namen uporabi;
- i) poseben način ali postopek, ki ga je treba uporabiti po 9. členu.

Zaprosilo lahko navaja tudi informacije, ki so potrebne za uporabo 11. člena.

Ne sme se zahtevati overitev ali druga podobna formalnost.

4. člen

Zaprosilo mora biti v jeziku zaprošenega organa ali pa mu mora biti priložen prevod v tem jeziku.

Vendar pa mora vsaka država pogodbenica sprejeti zaprosilo v angleškem ali francoskem jeziku ali zaprosilo, ki mu je priložen prevod v enem od teh dveh jezikov, razen če je izrazila pridržek, ki ga dopušča 33. člen.

Država pogodbenica, v kateri je več uradnih jezikov in zaradi razlogov notranjega prava za svoje celotno ozemlje ne more sprejeti zaprosil v enem od teh jezikov, mora z izjavo določiti jezik, v katerem mora biti zaprosilo sestavljeno ali vanj prevedeno, da bi se na območjih njenega ozemlja, ki jih je navedla, lahko začelo izvrševati. V primeru neutemeljenega nespoštovanja te izjave stroške prevoda v zahtevani jezik krije država prosilka.

Država pogodbenica lahko z izjavo določi jezik ali jezike, ki niso navedeni v prejšnjih odstavkih in v katerih se zaprosilo lahko pošlje njenemu osrednjemu organu.

Vsak prevod, priložen zaprosilu, mora overiti bodisi diplomatski ali konzularni predstavnik ali zapriseženi prevajalec ali druga oseba, ki je v eni in drugi državi za to pooblaščen.

5. člen

Če osrednji organ meni, da zaprosilo ne ustreza določbam konvencije, o tem takoj obvesti organ države prosilke, ki mu je poslal zaprosilo, z navedbo ugovorov na zaprosilo.

Article 6

If the authority to whom a Letter of Request has been transmitted is not competent to execute it, the Letter shall be sent forthwith to the authority in the same State which is competent to execute it in accordance with the provisions of its own law.

Article 7

The requesting authority shall, if it so desires, be informed of the time when, and the place where, the proceedings will take place, in order that the parties concerned, and their representatives, if any, may be present. This information shall be sent directly to the parties or their representatives when the authority of the State of origin so requests.

Article 8

A Contracting State may declare that members of the judicial personnel of the requesting authority of another Contracting State may be present at the execution of a Letter of Request. Prior authorization by the competent authority designated by the declaring State may be required.

Article 9

The judicial authority which executes a Letter of Request shall apply its own law as to the methods and procedures to be followed.

However, it will follow a request of the requesting authority that a special method or procedure be followed, unless this is incompatible with the internal law of the State of execution or is impossible of performance by reason of its internal practice and procedure or by reason of practical difficulties.

A Letter of Request shall be executed expeditiously.

Article 10

In executing a Letter of Request the requested authority shall apply the appropriate measures of compulsion in the instances and to the same extent as are provided by its internal law for the execution of orders issued by the authorities of its own country or of requests made by parties in internal proceedings.

Article 11

In the execution of a Letter of Request the person concerned may refuse to give evidence in so far as he has a privilege or duty to refuse to give the evidence

a) under the law of the State of execution; or
b) under the law of the State of origin, and the privilege or duty has been specified in the Letter, or, at the instance of the requested authority, has been otherwise confirmed to that authority by the requesting authority.

A Contracting State may declare that, in addition, it will respect privileges and duties existing under the law of States other than the State of origin and the State of execution, to the extent specified in that declaration.

Article 12

The execution of a Letter of Request may be refused only to the extent that –

a) in the State of execution the execution of the Letter does not fall within the functions of the judiciary; or
b) the State addressed considers that its sovereignty or security would be prejudiced thereby.

Execution may not be refused solely on the ground that under its internal law the State of execution claims exclusive jurisdiction over the subject-matter of the action or that its internal law would not admit a right of action on it.

Article 13

The documents establishing the execution of the Letter of Request shall be sent by the requested authority to the requesting authority by the same channel which was used by the latter.

6. člen

Če organ, ki mu je bilo zaprosilo poslano, ni pristojen za njegovo izvršitev, se zaprosilo nemudoma pošlje organu v isti državi, ki je v skladu z določbami njenega prava pristojen za izvršitev zaprosila.

7. člen

Organ prosilec je, če tako želi, obveščen o času in kraju izvršitve postopka, da bi se ga zainteresirane stranke in njihovi morebitni zastopniki lahko udeležili. To obvestilo se, kadar organ države prosilke to zahteva, pošlje neposredno udeležencem ali njihovim zastopnikom.

8. člen

Država pogodbenica lahko izjavi, da pri izvršitvi zaprosila lahko sodelujejo člani sodnega organa prosilca druge države pogodbenice. Zahteva se lahko predhodno dovoljenje pristojnega organa, ki ga imenuje država, ki je dala izjavo.

9. člen

Sodni organ, ki izvršuje zaprosilo, uporablja svoje notranje pravo glede potrebnih načinov in postopkov.

Na zahtevo organa prosilca pa lahko uporabi poseben način ali postopek, razen če je ta nezdružljiv z notranjim pravom države izvršitve ali če ga ni mogoče izvesti zaradi njene notranje sodne prakse in postopka ali zaradi praktičnih težav.

Zaprosilo je treba hitro izvršiti.

10. člen

Zaprošeni organ pri izvrševanju zaprosil uporablja primerna prisilna sredstva v primerih in enakem obsegu, kot to njegovo notranje pravo določa za izvrševanje odredb organov njegove lastne države ali zaprosil strank v notranjih postopkih.

11. člen

Pri izvrševanju zaprosila lahko prizadeta oseba odkloni predložitev dokazov, če je taka zavrnitev njen privilegij ali dolžnost:

a) po pravu države izvršitve,
b) po pravu države prosilke, pri čemer mora biti privilegij ali dolžnost navedena v zaprosilu ali pa jo je na zahtevo zaprosenega organa drugače potrdil organ prosilec.

Država pogodbenica lahko izjavi, da bo priznavala privilegije in dolžnosti v obsegu, navedenem v izjavi, tudi če so predvidene s pravom drugih držav, ne le države prosilke in zaprosene države.

12. člen

Izvrševanje zaprosila se lahko zavrne, samo če:

a) izvrševanje zaprosila v državi izvršitve ni v sodni pristojnosti ali
b) zaprosena država meni, da bi izvršitev škodovala njeni suverenosti ali varnosti.

Zaprosila ne sme zavrniti samo zato, ker trdi, da ima po svojem notranjem pravu izključno sodno pristojnost glede zadeve ali da njeno notranje pravo ne bi dovolilo sodnega postopka.

13. člen

Zaprošeni organ pošlje dokumente o izvrševanju zaprosila organu prosilcu po isti poti, kot je bilo poslano zaprosilo.

In every instance where the Letter is not executed in whole or in part, the requesting authority shall be informed immediately through the same channel and advised of the reasons.

Article 14

The execution of the Letter of Request shall not give rise to any reimbursement of taxes or costs of any nature.

Nevertheless, the State of execution has the right to require the State of origin to reimburse the fees paid to experts and interpreters and the costs occasioned by the use of a special procedure requested by the State of origin under Article 9, paragraph 2.

The requested authority whose law obliges the parties themselves to secure evidence, and which is not able itself to execute the Letter, may, after having obtained the consent of the requesting authority, appoint a suitable person to do so. When seeking this consent the requested authority shall indicate the approximate costs which would result from this procedure. If the requesting authority gives its consent it shall reimburse any costs incurred; without such consent the requesting authority shall not be liable for the costs.

CHAPTER II – TAKING OF EVIDENCE BY DIPLOMATIC OFFICERS, CONSULAR AGENTS AND COMMISSIONERS

Article 15

In civil or commercial matters, a diplomatic officer or consular agent of a Contracting State may, in the territory of another Contracting State and within the area where he exercises his functions, take the evidence without compulsion of nationals of a State which he represents in aid of proceedings commenced in the courts of a State which he represents.

A Contracting State may declare that evidence may be taken by a diplomatic officer or consular agent only if permission to that effect is given upon application made by him or on his behalf to the appropriate authority designated by the declaring State.

Article 16

A diplomatic officer or consular agent of a Contracting State may, in the territory of another Contracting State and within the area where he exercises his functions, also take the evidence, without compulsion, of nationals of the State in which he exercises his functions or of a third State, in aid of proceedings commenced in the courts of a State which he represents, if –

a) a competent authority designated by the State in which he exercises his functions has given its permission either generally or in the particular case, and

b) he complies with the conditions which the competent authority has specified in the permission.

A Contracting State may declare that evidence may be taken under this Article without its prior permission.

Article 17

In civil or commercial matters, a person duly appointed as a commissioner for the purpose may, without compulsion, take evidence in the territory of a Contracting State in aid of proceedings commenced in the courts of another Contracting State, if –

a) a competent authority designated by the State where the evidence is to be taken has given its permission either generally or in the particular case; and

b) he complies with the conditions which the competent authority has specified in the permission.

A Contracting State may declare that evidence may be taken under this Article without its prior permission.

Kadar zaprosilo v celoti ali delno ni izvršeno, je treba organ prosilec po isti poti o tem nemudoma obvestiti in navesti razloge.

14. člen

Izvrševanje zaprosila ni razlog za povračila kakršnih koli pristojbin ali stroškov.

Zaprošena država pa ima pravico od države prosilke zahtevati povračilo honorarjev strokovnjakom in tolmačem in stroškov, nastalih z uporabo posebnega postopka, ki ga je zahtevala država prosilka v skladu z drugim odstavkom 9. člena.

Zaprošeni organ, katerega pravo zavezuje stranke, da same priskrbijo dokaze in ki sam ne more izvršiti zaprosila, lahko po pridobitvi soglasja organa prosilca imenuje v ta namen ustrezno osebo. Ko zaprošeni organ išče soglasje organa prosilca, navede približne stroške takega postopka. Če organ prosilec soglaša, mora povrniti vse nastale stroške; če pa organ prosilec ne soglaša, ni odgovoren za plačilo stroškov.

II. POGlavJE – PRIDOBIVANJE DOKAZOV S STRANI DIPLOMATSKIH ALI KONZULARNIH PREDSTAVNIKOV IN KOMISARJEV

15. člen

Diplomatski ali konzularni predstavnik države pogodbenice lahko v civilnih ali gospodarskih zadevah na ozemlju druge države pogodbenice in na območju, na katerem opravlja svoje naloge, brez prisile pridobiva dokaze od državljanov države, ki jo predstavlja, za postopek, sprožen pred sodišči države, ki jo predstavlja.

Država pogodbenica lahko izjavi, da diplomatski ali konzularni predstavnik lahko pridobiva dokaze le na podlagi dovoljenja, ki ga na njegovo prošnjo ali prošnjo v njegovem imenu izda pristojni organ, ki ga imenuje država, ki daje izjavo.

16. člen

Diplomatski ali konzularni predstavnik države pogodbenice lahko poleg tega na ozemlju druge države pogodbenice in na območju, na katerem opravlja svoje naloge, brez prisile pridobiva dokaze od državljanov države, v kateri opravlja svoje naloge, ali druge države za postopek, sprožen pred sodišči države, ki jo predstavlja, če:

a) je pristojni organ, ki ga imenuje država, v kateri opravlja svoje naloge, to dovolil na splošno ali za posamezno zadevo, in

b) spoštuje pogoje, ki jih je pristojni organ določil v dovoljenju.

Država pogodbenica lahko izjavi, da pridobivanje dokazov po tem členu lahko poteka brez njenega predhodnega dovoljenja.

17. člen

V civilnih in gospodarskih zadevah lahko oseba, ki je v ta namen pravilno imenovana za komisarja, brez prisile pridobiva dokaze na ozemlju države pogodbenice za postopek, sprožen pred sodišči druge države pogodbenice, če:

a) je pristojni organ države, v kateri naj se izvrši zaprosilo, to dovolil na splošno ali za posamezno zadevo in

b) ta oseba spoštuje pogoje, ki jih je pristojni organ določil v dovoljenju.

Država pogodbenica lahko izjavi, da pridobivanje dokazov po tem členu lahko poteka brez njenega predhodnega dovoljenja.

Article 18

A Contracting State may declare that a diplomatic officer, consular agent or commissioner authorized to take evidence under Articles 15, 16 or 17, may apply to the competent authority designated by the declaring State for appropriate assistance to obtain the evidence by compulsion. The declaration may contain such conditions as the declaring State may see fit to impose.

If the authority grants the application it shall apply any measures of compulsion which are appropriate and are prescribed by its law for use in internal proceedings.

Article 19

The competent authority, in giving the permission referred to in Articles 15, 16 or 17, or in granting the application referred to in Article 18, may lay down such conditions as it deems fit, *inter alia*, as to the time and place of the taking of the evidence. Similarly it may require that it be given reasonable advance notice of the time, date and place of the taking of the evidence; in such a case a representative of the authority shall be entitled to be present at the taking of the evidence.

Article 20

In the taking of evidence under any Article of this Chapter persons concerned may be legally represented.

Article 21

Where a diplomatic officer, consular agent or commissioner is authorized under Articles 15, 16 or 17 to take evidence –

a) he may take all kinds of evidence which are not incompatible with the law of the State where the evidence is taken or contrary to any permission granted pursuant to the above Articles, and shall have power within such limits to administer an oath or take an affirmation;

b) a request to a person to appear or to give evidence shall, unless the recipient is a national of the State where the action is pending, be drawn up in the language of the place where the evidence is taken or be accompanied by a translation into such language;

c) the request shall inform the person that he may be legally represented and, in any State that has not filed a declaration under Article 18, shall also inform him that he is not compelled to appear or to give evidence;

d) the evidence may be taken in the manner provided by the law applicable to the court in which the action is pending provided that such manner is not forbidden by the law of the State where the evidence is taken;

e) a person requested to give evidence may invoke the privileges and duties to refuse to give the evidence contained in Article 11.

Article 22

The fact that an attempt to take evidence under the procedure laid down in this Chapter has failed, owing to the refusal of a person to give evidence, shall not prevent an application being subsequently made to take the evidence in accordance with Chapter I.

CHAPTER III – GENERAL CLAUSES

Article 23

A Contracting State may at the time of signature, ratification or accession, declare that it will not execute Letters of Request issued for the purpose of obtaining pre-trial discovery of documents as known in Common Law countries.

Article 24

A Contracting State may designate other authorities in addition to the Central Authority and shall determine the extent

18. člen

Država pogodbenica lahko izjavi, da diplomatski ali konzularni predstavnik, pooblaščen za pridobivanje dokazov v skladu s 15., 16. in 17. členom, lahko pristojni organ, ki ga imenuje ta država, zaprosi za ustrezno pomoč pri pridobivanju dokazov s prisilo. Izjava lahko vsebuje pogoje, ki jih država, ki daje izjavo, določi po svoji presoji.

Kadar pristojni organ ugotovi prošnji, uporabi ustrezna sredstva prisile, ki so predpisana po njenem pravu za uporabo v notranjih postopkih.

19. člen

Ko pristojni organ daje dovoljenje, navedeno v 15., 16. in 17. členu, ali izda odredbo, s katero ugotovi prošnji, predvideni v 18. členu, lahko določi pogoje, ki jih šteje za primerne, med drugim glede časa in kraja pridobivanja dokazov. Prav tako lahko zahteva, da se mu podatki o uri, datumu in kraju pravočasno sporočijo vnaprej; v tem primeru je pri pridobivanju dokazov lahko navzoč predstavnik omenjenega organa.

20. člen

Osebe, na katere se nanaša pridobivanje dokazov po tem poglavju, lahko imajo pravnega zastopnika.

21. člen

Kadar je diplomatski ali konzularni predstavnik ali komisar pooblaščen, da na podlagi 15., 16. in 17. člena pridobiva dokaze:

a) lahko pridobiva vse vrste dokazov, ki niso združljivi s pravom države, v kateri se dokazi pridobivajo, ali niso v nasprotju z dovoljenjem, izdanim na podlagi prejšnjih členov, in lahko pod enakimi pogoji sprejme na zapisnik izjavo pod prisego ali s potrdilom;

b) je poziv osebi, da se zgledi ali predloži dokaz, sestavljen v jeziku kraja, v katerem se pridobivajo dokazi, ali pa mu je priložen prevod v ta jezik, razen če je prejemnik poziva državljan države, v kateri postopek teče;

c) je v pozivu navedeno, da lahko ima oseba pravnega zastopnika, in če gre za državo, ki ni dala izjave, predvidene v 18. členu, da se ni dolžna zglasiti ali predložiti dokazov;

d) da se lahko dokazi pridobivajo na način, predviden po pravu za sodišče, pred katerim teče postopek, pod pogojem, da tak način ni prepovedan po pravu države, v kateri se pridobivajo dokazi;

e) se oseba, ki je pozvana predložiti dokaz, lahko sklicuje na privilegije in dolžnosti iz 11. člena, da to zavrne.

22. člen

Dejstvo, da se dokazi niso mogli pridobiti po postopku iz tega poglavja, ker je določena oseba zavrnila predložitev dokazov, ne preprečuje, da se za isto pridobivanje dokazov kasneje pošlje zaprosilo v skladu z določbami prvega poglavja.

III. POGLAVJE – SPLOŠNE DOLOČBE

23. člen

Država pogodbenica lahko ob podpisu, ratifikaciji ali pristopu izjavi, da ne bo izvrševala zaprosil, izdanih za postopek, znan v državah anglosaksonskega prava kot predobravnavno odkrivanje dokumentov.

24. člen

Država pogodbenica lahko poleg osrednjega organa imenuje druge organe in določi obseg njihove pristojnosti. Ven-

of their competence. However, Letters of Request may in all cases be sent to the Central Authority.

Federal States shall be free to designate more than one Central Authority.

Article 25

A Contracting State which has more than one legal system may designate the authorities of one of such systems, which shall have exclusive competence to execute Letters of Request pursuant to this Convention.

Article 26

A Contracting State, if required to do so because of constitutional limitations, may request the reimbursement by the State of origin of fees and costs, in connection with the execution of Letters of Request, for the service of process necessary to compel the appearance of a person to give evidence, the costs of attendance of such persons, and the cost of any transcript of the evidence.

Where a State has made a request pursuant to the above paragraph, any other Contracting State may request from that State the reimbursement of similar fees and costs.

Article 27

The provisions of the present Convention shall not prevent a Contracting State from –

- a) declaring that Letters of Request may be transmitted to its judicial authorities through channels other than those provided for in Article 2;
- b) permitting, by internal law or practice, any act provided for in this Convention to be performed upon less restrictive conditions;
- c) permitting, by internal law or practice, methods of taking evidence other than those provided for in this Convention.

Article 28

The present Convention shall not prevent an agreement between any two or more Contracting States to derogate from –

- a) the provisions of Article 2 with respect to methods of transmitting Letters of Request;
- b) the provisions of Article 4 with respect to the languages which may be used;
- c) the provisions of Article 8 with respect to the presence of judicial personnel at the execution of Letters;
- d) the provisions of Article 11 with respect to the privileges and duties of witnesses to refuse to give evidence;
- e) the provisions of Article 13 with respect to the methods of returning executed Letters to the requesting authority;
- f) the provisions of Article 14 with respect to fees and costs;
- g) the provisions of Chapter II.

Article 29

Between Parties to the present Convention who are also Parties to one or both of the Conventions on Civil Procedure signed at The Hague on the 17th of July 1905 and the 1st of March 1954, this Convention shall replace Articles 8-16 of the earlier Conventions.

Article 30

The present Convention shall not affect the application of Article 23 of the Convention of 1905, or of Article 24 of the Convention of 1954.

Article 31

Supplementary Agreements between Parties to the Conventions of 1905 and 1954 shall be considered as equally applicable to the present Convention unless the Parties have otherwise agreed.

dar pa se lahko zaprosilo v vseh primerih pošlje osrednjemu organu.

Zvezne države lahko imenujejo več osrednjih organov.

25. člen

Država pogodbenica, v kateri velja več pravnih sistemov, lahko imenuje organe enega od teh sistemov, ki bodo izključno pristojni za izvrševanje zaprosil na podlagi te konvencije.

26. člen

Država pogodbenica, ki to mora storiti iz ustavnih razlogov, lahko državo prosilko pozove, da povrne stroške, nastale v zvezi z izvrševanjem zaprosila, in sicer za vročitev osebi, ki se je dolžna zglasiti in predložiti dokaz, in stroške navzočnosti take osebe ter stroške vsakega prepisa dokazov.

Kadar država zahteva povračilo stroškov po prejšnjem odstavku, lahko tudi vsaka druga država od nje zahteva povračilo podobnih pristojbin in stroškov.

27. člen

Določbe te konvencije ne preprečujejo, da bi država pogodbenica:

- a) izjavila, naj se zaprosila njenim sodnim organom pošljejo po drugih poteh, kot so predvidene v 2. členu;
- b) na podlagi notranjega prava ali prakse dovolila postopke, za katere se konvencija uporablja, pod manj omejevalnimi pogoji;
- c) na podlagi notranjega prava ali prakse dovolila načine pridobivanja dokazov, ki so drugačni od predvidenih s to pogodbo.

28. člen

Ta konvencija ne preprečuje, da bi se dve ali več držav pogodbenic dogovorilo, da ne bodo upoštevale:

- a) določb 2. člena glede načinov pošiljanja zaprosil;
- b) določb 4. člena glede jezikov, ki se lahko uporabljajo;
- c) določb 8. člena glede navzočnosti članov sodnega organa pri izvrševanju zaprosil;
- d) določb 11. člena glede privilegijev in dolžnosti prič, da zavrnejo predložitev dokazov;
- e) določb 13. člena glede načinov vračanja izvršenega zaprosila organu prosilcu;
- f) določb 14. člena glede pristojbin in stroškov;
- g) določb II. poglavja.

29. člen

Med državami pogodbenicami te konvencije, ki so tudi pogodbenice ene ali obeh konvencij o civilnem postopku, podpisanih v Haagu 17. julija 1905 in 1. marca 1954, ta konvencija nadomesti 8. do 16. člen prejšnjih konvencij.

30. člen

Ta konvencija ne vpliva na uporabo 23. člena konvencije iz leta 1905 ali 24. člena konvencije iz leta 1954.

31. člen

Dodatni sporazumi h konvencijami iz let 1905 in 1954, ki so jih sklenile države pogodbenice, se štejejo za enakovredne tej konvenciji, razen če se pogodbenice niso drugače dogovorile.

Article 32

Without prejudice to the provisions of Articles 29 and 31, the present Convention shall not derogate from conventions containing provisions on the matters covered by this Convention to which the Contracting States are, or shall become Parties.

Article 33

A State may, at the time of signature, ratification or accession exclude, in whole or in part, the application of the provisions of paragraph 2 of Article 4 and of Chapter II. No other reservation shall be permitted.

Each Contracting State may at any time withdraw a reservation it has made; the reservation shall cease to have effect on the sixtieth day after notification of the withdrawal.

When a State has made a reservation, any other State affected thereby may apply the same rule against the reserving State.

Article 34

A State may at any time withdraw or modify a declaration.

Article 35

A Contracting State shall, at the time of the deposit of its instrument of ratification or accession, or at a later date, inform the Ministry of Foreign Affairs of the Netherlands of the designation of authorities, pursuant to Articles 2, 8, 24 and 25.

A Contracting State shall likewise inform the Ministry, where appropriate, of the following –

a) the designation of the authorities to whom notice must be given, whose permission may be required, and whose assistance may be invoked in the taking of evidence by diplomatic officers and consular agents, pursuant to Articles 15, 16 and 18 respectively;

b) the designation of the authorities whose permission may be required in the taking of evidence by commissioners pursuant to Article 17 and of those who may grant the assistance provided for in Article 18;

c) declarations pursuant to Articles 4, 8, 11, 15, 16, 17, 18, 23 and 27;

d) any withdrawal or modification of the above designations and declarations;

e) the withdrawal of any reservation.

Article 36

Any difficulties which may arise between Contracting States in connection with the operation of this Convention shall be settled through diplomatic channels.

Article 37

The present Convention shall be open for signature by the States represented at the Eleventh Session of the Hague Conference on Private International Law.

It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Article 38

The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 37.

The Convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

Article 39

Any State not represented at the Eleventh Session of the Hague Conference on Private International Law which is a Member of this Conference or of the United Nations or of a specialized agency of that Organization, or a Party to the Statute of the International Court of Justice may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 38.

32. člen

Ta konvencija ne sme odstopati od konvencij, ki vsebujejo določbe o zadevah, ki jih ureja ta konvencija, in katerih pogodbenice so ali bodo postale države pogodbenice, kar pa ne vpliva na uporabo določb 29. in 31. člena.

33. člen

Država lahko ob podpisu, ratifikaciji ali pristopu v celoti ali delno izključi uporabo določb drugega odstavka 4. člena in II. poglavja. Drugi pridržki niso dovoljeni.

Vsaka država pogodbenica lahko kadar koli umakne pridržek, ki ga je izrazila; pridržek preneha učinkovati šestdeseti dan po uradnem obvestilu o umiku.

Kadar neka država izrazi pridržek, lahko druga država, ki jo ta pridržek prizadene, uporabi enako pravilo v odnosu do države, ki je pridržek izrazila.

34. člen

Vsaka država lahko kadar koli umakne ali spremeni izjavo.

35. člen

Država pogodbenica ob deponiranju svoje listine o ratifikaciji ali pristopu ali pozneje obvesti Ministrstvo za zunanje zadeve Nizozemske o imenovanju organov v skladu z 2., 8., 24. in 25. členom.

Kadar je to primerno, država pogodbenica ministrstvo prav tako obvesti o:

a) imenovanju organov, ki jim je treba poslati uradno obvestilo, katerih dovoljenje se lahko zahteva in na katerih pomoč se lahko pri pridobivanju dokazov sklicujejo diplomatski in konzularni predstavniki v skladu 15., 16. oziroma 18. členom;

b) imenovanju organov, katerih dovoljenje lahko zahtevajo komisariji pri pridobivanju dokazov na podlagi 17. člena, in organov, ki lahko odobrijo pomoč, predvideno v 18. členu;

c) izjavah na podlagi 4., 8., 11., 15., 16., 17., 18., 23. in 27. člena;

d) vsakem umiku ali spremembi omenjenih imenovanj in izjav;

e) umiku katerega koli pridržka.

36. člen

Vse težave, nastale med državami pogodbenicami v zvezi z izvajanjem te konvencije, se urejajo po diplomatski poti.

37. člen

Ta konvencija je na voljo za podpis državam, zastopanim na enajstem zasedanju Haaške konference o mednarodnem zasebnem pravu.

Konvencijo je treba ratificirati, listine o ratifikaciji pa se deponirajo pri Ministrstvu za zunanje zadeve Nizozemske.

38. člen

Ta konvencija začne veljati šestdeseti dan po deponiranju tretje listine o ratifikaciji iz drugega odstavka 37. člena.

Konvencija začne veljati za vsako državo podpisnico, ki jo ratificira kasneje, šestdeseti dan po deponiranju njene listine o ratifikaciji.

39. člen

Država, ki ni bila zastopana na enajstem zasedanju Haaške konference o mednarodnem zasebnem pravu, je pa članica Konference ali Združenih narodov ali ene od specializiranih agencij te organizacije ali pogodbenica statuta Meddržavnega sodišča, lahko pristopi k tej konvenciji po tem, ko je ta začela veljati na podlagi prvega odstavka 38. člena.

The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for a State acceding to it on the sixtieth day after the deposit of its instrument of accession.

The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession. Such declaration shall be deposited at the Ministry of Foreign Affairs of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the sixtieth day after the deposit of the declaration of acceptance.

Article 40

Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State concerned.

At any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for the territories mentioned in such an extension on the sixtieth day after the notification indicated in the preceding paragraph.

Article 41

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 38, even for States which have ratified it or acceded to it subsequently.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five year period.

It may be limited to certain of the territories to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 42

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 37, and to the States which have acceded in accordance with Article 39, of the following –

- a) the signatures and ratifications referred to in Article 37;
- b) the date on which the present Convention enters into force in accordance with the first paragraph of Article 38;
- c) the accessions referred to in Article 39 and the dates on which they take effect;
- d) the extensions referred to in Article 40 and the dates on which they take effect;
- e) the designations, reservations and declarations referred to in Articles 33 and 35;
- f) the denunciations referred to in the third paragraph of Article 41.

In witness whereof the undersigned, being duly authorized thereto, have signed the present Convention.

Done at The Hague, on the 18th day of March, 1970, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Netherlands, and of which a certified copy shall be sent, through the diplomatic channel, to each of the States represented at the Eleventh Session of the Hague Conference on Private International Law.

Listina o pristopu se deponira pri Ministrstvu za zunanje zadeve Nizozemske.

Konvencija začne veljati za državo, ki k njej pristopi, šestdeseti dan po deponiranju njene listine o pristopu.

Pristop začne veljati le v odnosih med državo, ki k njej pristopi, in državami pogodbenicami, ki so izjavile, da njen pristop sprejmejo. Ta izjava se deponira pri Ministrstvu za zunanje zadeve Nizozemske, ki overjeni izvod te izjave pošlje po diplomatski poti vsaki državi pogodbenici.

Konvencija začne med državo, ki k njej pristopi, in državo, ki je izjavila, da ta pristop sprejme, veljati šestdeseti dan po deponiranju izjave o sprejetju.

40. člen

Vsaka država lahko ob podpisu, ratifikaciji ali pristopu izjavi, da se uporaba te konvencije razširi na vsa ozemlja, za katerih mednarodne odnose je odgovorna, ali na eno ali več teh ozemelj. Izjava začne veljati na dan začetka veljavnosti te konvencije za to državo.

Kadar koli pozneje se o taki razširitvi uradno obvesti Ministrstvo za zunanje zadeve Nizozemske.

Za ozemlja, na katera se razširitev uporabe nanaša, začne konvencija veljati šestdeseti dan po uradnem obvestilu iz prejšnjega odstavka.

41. člen

Ta konvencija velja 5 let od dne začetka veljavnosti v skladu s prvim odstavkom 38. člena, in sicer tudi za države, ki so jo kasneje ratificirale ali k njej pristopile.

Če ni odpovedana, se konvencija molče podaljša vsakih 5 let.

Odpoved se uradno sporoči Ministrstvu za zunanje zadeve Nizozemske vsak 6 mesecev pred koncem petletnega obdobja.

Odpoved se lahko omeji na določena ozemlja, za katera se konvencija uporablja.

Odpoved velja le za državo, ki je to uradno sporočila. Za druge države pogodbenice še naprej velja.

42. člen

Ministrstvo za zunanje zadeve Nizozemske države iz 37. člena in države, ki so k njej pristopile v skladu z 39. členom, uradno obvesti o:

- a) podpisih in ratifikacijah iz 37. člena;
- b) datumu začetka veljavnosti te konvencije v skladu s prvim odstavkom 38. člena;
- c) pristopih iz 39. člena in datumih njihovega začetka veljavnosti;
- d) razširitvah iz 40. člena in datumih njihovega začetka veljavnosti;
- e) imenovanjih, pridržkih in izjavah iz 33. in 35. člena;
- f) odpovedih iz tretjega odstavka 41. člena.

V potrditev tega so podpisani, ki so bili za to pravilno pooblaščen, podpisali to konvencijo.

Sestavljeno v Haagu 18. marca 1970 v enem izvorniku, katerega besedilo v angleščini in francoščini sta enako verodostojni, ki se deponira v arhivu Vlade Nizozemske in katerega overjena kopija se po diplomatski poti pošlje vsaki državi, ki se je udeležila desetega zasedanja Haaške konference o mednarodnem zasebnem pravu.

3. člen

Za izvajanje konvencije skrbita Ministrstvo za pravosodje in Ministrstvo za zunanje zadeve.

4. člen

Ta zakon začne veljati naslednji dan po objavi v Uradnem listu Republike Slovenije – Mednarodne pogodbe.

Št. 700-01/00-62/1

Ljubljana, dne 26. julija 2000

Predsednik
Državnega zbora
Republike Slovenije
Janez Podobnik, dr. med. l. r.

– **Obvestilo o začetku veljavnosti mednarodnih pogodb**

O B V E S T I L O **o začetku veljavnosti mednarodnih pogodb**

Od 16. aprila 2000 je v veljavi Sporazum med Vlado Republike Slovenije in Vlado Republike Latvije o mednarodnem cestnem prevozu, podpisan v Kopenhagnu dne 26. maja 1998 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 4/00 (Uradni list Republike Slovenije, št. 19/00).

Dne 1. avgusta 2000 je začel veljati Sporazum med Vlado Republike Slovenije in Zvezno vlado Republike Avstrije o turističnem prometu na mejnem območju (INTERREG/PHARE – CBC – obmejna panoramska pot), podpisan v Schlossbergu dne 1. avgusta 1999 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 11/00 (Uradni list Republike Slovenije, št. 44/00).

Dne 29. avgusta 2000 bo začel veljati Sporazum med Vlado Republike Slovenije in Vlado Republike Madžarske o obrambnem in vojaškem sodelovanju, podpisan v Misefi dne 5. oktobra 1998 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 9/00 (Uradni list Republike Slovenije, št. 33/00).

VSEBINA

	Stran
101. Zakon o ratifikaciji Evropske konvencije o mednarodni veljavnosti kazenskih sodb (MEKMKV)	913
102. Zakon o ratifikaciji Konvencije o vročitvi sodnih in zunajsodnih listin v civilnih ali gospodarskih zadevah v tujini (MKVLCG)	930
103. Zakon o ratifikaciji Konvencije o pridobivanju dokazov v civilnih ali gospodarskih zadevah v tujini (MKPDCCG)	944
– Obvestilo o začetku veljavnosti mednarodnih pogodb	952

ISSN 1318-0932



Izdajatelj Služba Vlade RS za zakonodajo – Za izdajatelja dr. Tone Jerovšek – Založnik Uradni list RS, d.o.o. – Direktor Marko Polutnik – Urednica Marija Petrovič-Kurt – Priprava Uradni list RS, d.o.o., Tisk Tiskarna SET, d.o.o., Vevče – Internet <http://www.uradni-list.si> – e-pošta: info@uradni-list.si