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Leto XII

28. Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Italijanske republike o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja z dodatnim protokolom (BITIDO)

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 MED VLADO REPUBLIKE SLOVENIJE IN VLADO ITALIJANSKE REPUBLIKE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA Z DODATNIM PROTOKOLOM (BITIDO)

Razgllašam Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Italijanske republike o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja z dodatnim protokolom (BITIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji 21. marca 2002.

Št. 001-22-28/02

Ljubljana, 29. marca 2002

Predsednik
Republike Slovenije
Milan Kučan l. r.

Z A K O N

O RATIFIKACIJI KONVENCIJE MED VLADO REPUBLIKE SLOVENIJE IN VLADO ITALIJANSKE REPUBLIKE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA Z DODATNIM PROTOKOLOM (BITIDO)

1. člen

Ratificira se Konvencija med Vlado Republike Slovenije in Vlado Italijanske republike o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja z dodatnim protokolom, podpisana v Ljubljani dne 11. septembra 2001.

2. člen

Konvencija z dodatnim protokolom se v izvorniku v slovenskem in angleškem jeziku glasi: *

K O N V E N C I J A

MED VLADO REPUBLIKE SLOVENIJE IN

VLADO ITALIJANSKE REPUBLIKE

O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN

PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z

DAVKI OD DOHODKA IN PREMOŽENJA

Vlada Republike Slovenije in Vlada Italijanske republike sta se v želji, da bi sklenili konvencijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, sporazumeli, kot sledi:

C O N V E N T I O N

BETWEEN THE GOVERNMENT OF

THE REPUBLIC OF SLOVENIA AND THE

GOVERNMENT OF THE ITALIAN REPUBLIC

FOR THE AVOIDANCE OF DOUBLE TAXATION

WITH RESPECT TO TAXES ON INCOME AND ON

CAPITAL AND THE PREVENTION OF FISCAL

EVASION

The Government of the Republic of Slovenia and the Government of the Italian Republic,
Desiring to conclude a Convention to avoid double taxation with respect to taxes on income and on capital and to prevent fiscal evasion
Have agreed as follows:

* Besedilo konvencije z dodatnim protokolom v italijanskem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve Republike Slovenije.

I. poglavje**Področje uporabe konvencije**

1. člen

OSEBE, ZA KATERE SE UPORABLJA KONVENCIJA

Ta konvencija se uporablja za osebe, ki so rezidenti ene ali obeh držav pogodbenic.

2. člen

DAVKI, ZA KATERE SE UPORABLJA KONVENCIJA

1. Ta konvencija se uporablja za davke od dohodka in premoženja, ki se uvedejo v imenu vsake države pogodbenice ali njenih političnih ali upravnih enot ali lokalnih oblasti, ne glede na način njihove uvedbe.

2. Za davke od dohodka in premoženja se štejejo vsi davki, uvedeni na celoten dohodek, celotno premoženje ali na sestavine dohodka ali premoženja, vključno z davki od dobička iz odtujitve premičnin ali nepremičnin, davki na skupne zneske mezd ali plač, ki jih plačujejo podjetja, ter davki od povečanja premoženja.

3. Obstoječi davki, za katere se uporablja ta konvencija, so zlasti:

a) v Sloveniji:

1. davek od dobička pravnih oseb;

2. davek od dohodka posameznikov (dohodnina);

3. davek od premoženja
(v nadaljevanju "slovenski davek");

b) v Italiji:

1. davek od osebnega dohodka (l'imposta sul reddito delle persone fisiche);

2. davek od dohodka pravnih oseb (l'imposta sul reddito delle persone giuridiche);

3. regionalni davek od proizvodnih dejavnosti (l'imposta regionale sulle attività produttive)
ne glede na to, ali se pobirajo pri viru dohodka ali ne

(v nadaljevanju "italijanski davek").

4. Ta konvencija se uporablja tudi za kakršne koli enake ali vsebinsko podobne davke, ki se uvedejo po datumu podpisa te konvencije dodatno k obstoječim davkom ali namesto njih. Pristojna organa držav pogodbenic drug drugemu uradno obvestita o vseh bistvenih spremembah njihovih davčnih zakonodaj.

II. poglavje**Opredelitev izrazov**

3. člen

SPLOŠNA OPREDELITEV IZRAZOV

1. Za namene te konvencije, razen če sobesedilo zahteva drugače:

a) izraz "Slovenija" pomeni Republiko Slovenijo in ozemlje pod njeno suverenostjo, vključno z zračnim prostorom in morskimi območji, nad katerimi Republika Slovenija izvaja svojo suverenost ali jurisdikcijo v skladu z notranjim in mednarodnim pravom;

b) izraz "Italija" pomeni Italijansko Republiko in vsako območje za teritorialnim morjem, ki se določi kot območje, na katerem Italija v skladu s svojo zakonodajo in z mednarodnim pravom izvaja suverene pravice v zvezi z raziskovanjem in izkoriščanjem naravnih virov morskega dna, njegovega podzemlja ter morja nad njim;

Chapter I**Scope of the Convention**

Article 1

PERSONAL SCOPE

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its political or administrative subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, or on total capital or on elements of income or capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular:

(a) in the case of Slovenia:

1 - the tax on profits of legal persons (davek od dobička pravnih oseb);

2 - the tax on income of individuals (dohodnina);

3 - the tax on property (davek na premoženje);
(hereinafter referred to as "Slovenian Tax");

(b) in the case of Italy:

1 - the personal income tax (l'imposta sul reddito delle persone fisiche);

2 - the corporate income tax (l'imposta sul reddito delle persone giuridiche);

3 - the regional tax on productive activities (l'imposta regionale sulle attività produttive)
whether or not they are collected by withholding at source.

(hereinafter referred to as "Italian Tax").

4. This Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant change which have been made in their respective taxation laws.

Chapter II**Definitions**

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

(a) the term "Slovenia" means the Republic of Slovenia and includes the territory under its sovereignty, including air space and maritime areas, over which the Republic of Slovenia exercises its sovereignty or jurisdiction, in accordance with internal and international law;

(b) the term "Italy" means the Italian Republic and, includes any area beyond the territorial waters which is designated as an area within which Italy, in compliance with its legislation and in conformity with the International Law, exercises sovereign rights in respect of the exploration and exploitation of the natural resources of the seabed, the subsoil and the superjacent waters;

c) izraza "država pogodbenica" in "druga država pogodbenica" pomenita, kot zahteva sobesedilo, Slovenijo ali Italijo;

d) izraz "oseba" vključuje posameznika, družbo in katero koli drugo telo, ki združuje več oseb;

e) izraz "družba" pomeni katero koli korporacijo ali kateri koli subjekt, ki se za davčne namene obravnava kot korporacija;

f) izraza "podjetje države pogodbenice" in "podjetje druge države pogodbenice" pomenita podjetje, ki ga upravlja rezident države pogodbenice, in podjetje, ki ga upravlja rezident druge države pogodbenice;

g) izraz "mednarodni promet" pomeni kakršen koli prevoz z ladjo ali letalom, ki ga opravlja podjetje, ki ima sedež dejanske uprave v državi pogodbenici, razen če ladja ali letalo opravlja prevoze samo med kraji v drugi državi pogodbenici;

h) izraz "državljeni" pomeni:

(i) vse posameznike, ki imajo državljanstvo države pogodbenice;

(ii) vse pravne osebe, osebne družbe in združenja, katerih status izhaja iz veljavne zakonodaje v državi pogodbenici;

i) izraz "pristojni organ" pomeni:

(i) V Sloveniji Ministrstvo za finance ali pooblaščenega predstavnika tega ministrstva;

(ii) V Italiji Ministrstvo za ekonomijo in finance.

2. Ko država pogodbenica uporablja to konvencijo, ima kateri koli izraz, ki v njej ni opredeljen, razen če sobesedilo zahteva drugače, pomen, ki ga ima po pravu te države pogodbenice v zvezi z davki, za katere se konvencija uporablja.

4. člen REZIDENT

1. Za namene te konvencije izraz "rezident države pogodbenice" pomeni katero koli osebo, ki je po zakonodaji te države dolžna plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave ali katerega koli drugega podobnega merila. Ta izraz pa ne vključuje katere koli osebe, ki je dolžna plačevati davke v tej državi samo v zvezi z dohodki iz virov v tej državi ali premoženja v njej.

2. Kadar je zaradi določb prvega odstavka posameznik rezident obeh držav pogodbenic, se njegov status določi na naslednji način:

a) šteje se za rezidenta države pogodbenice, v kateri ima na razpolago stalno prebivališče. Če ima stalno prebivališče na razpolago v obeh državah pogodbenicah, se šteje za rezidenta države pogodbenice, s katero ima tesnejše osebne in ekonomske odnose (središče življenjskih interesov);

b) če ni mogoče opredeliti države pogodbenice, v kateri ima središče življenjskih interesov, ali če nima v nobeni od držav pogodbenic na razpolago stalnega prebivališča, se šteje za rezidenta države pogodbenice, v kateri ima običajno bivališče;

c) če ima običajno bivališče v obeh državah pogodbenicah ali v nobeni od njiju, se šteje za rezidenta države pogodbenice, katere državljan je;

d) če je državljan obeh držav pogodbenic ali nobene od njiju, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom.

3. Kadar je zaradi določb prvega odstavka oseba, ki ni posameznik, rezident obeh držav pogodbenic, se šteje, da je rezident države, v kateri ima sedež dejanske uprave.

(c) the terms "a Contracting State" and "the other Contracting State" mean Slovenia or Italy, as the context requires;

(d) the term "person" includes an individual, a company and any other body of persons;

(e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(h) the term "nationals" means:

(i) all individuals possessing the nationality of a Contracting State;

(ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;

(i) the term "competent authority" means:

(i) in the case of Slovenia, the Ministry of Finance or its authorized representative;

(ii) in the case of Italy, the Ministry of Economy and Finance.

2. As regards the application of this Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State concerning the taxes to which the Convention applies.

Article 4 RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to tax therein by reason of his domicile, residence, place of management, or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

(a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

(b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

(c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;

(d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

5. člen

STALNA POSLOVNA ENOTA

1. Za namene te konvencije izraz "stalna poslovna enota" pomeni stalno mesto poslovanja, prek katerega se v celoti ali delno opravljajo posli podjetja.

2. Izraz "stalna poslovna enota" še posebej vključuje:

- a) sedež uprave,
- b) podružnico,
- c) pisarno,
- d) tovarno,
- e) delavnico,
- f) rudnik, kamnolom ali drug kraj pridobivanja naravnih

virov,

g) gradbišče ali projekt gradnje ali montaže, ki traja več kot dvanajst mesecev.

3. Šteje se, da izraz "stalna poslovna enota" ne vključuje:

a) uporabe prostorov samo za namen skladiščenja, razstavljanja ali dostave dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen skladiščenja, razstavljanja ali dostave;

c) vzdrževanje zaloge dobrin ali blaga, ki pripada podjetju, samo za namen predelave s strani drugega podjetja;

d) vzdrževanje stalnega mesta poslovanja samo za namen nakupa dobrin ali blaga ali zbiranja informacij za podjetje;

e) vzdrževanja stalnega mesta poslovanja samo za namen oglaševanja, dajanja informacij, znanstvenega raziskovanja ali podobnih dejavnosti pripravljalne ali pomožne narave za podjetje.

4. Oseba, ki v državi pogodbenici deluje v imenu podjetja druge države pogodbenice ki ni zastopnik z neodvisnim statusom, za katerega se uporablja peti odstavek se šteje za stalno poslovno enoto v prvi omenjeni državi, če ima in v tej državi običajno uporablja pooblastilo za sklepanje pogodb v imenu podjetja, razen če so njene dejavnosti omejene na nakup dobrin ali blaga za podjetje.

5. Ne šteje se, da ima podjetje države pogodbenice stalno poslovno enoto v drugi državi pogodbenici samo zato, ker opravlja posle v tej drugi državi prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, če te osebe delujejo v okviru svojega rednega poslovanja.

6. Dejstvo, da družba, ki je rezident države pogodbenice, nadzoruje družbo, ki je rezident druge države pogodbenice ali opravlja posle v tej drugi državi (prek stalne poslovne enote ali drugače) ali je pod nadzorom take družbe, samo po sebi še ne pomeni, da je ena od družb stalna poslovna enota druge.

III. poglavje

Obdavčevanje dohodka

6. člen

DOHODEK IZ NEPREMIČNIN

1. Dohodek rezidenta države pogodbenice, ki izhaja iz nepremičnin (vključno z dohodkom iz kmetijstva ali gozdarstva), ki so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, quarry or other place of extraction of natural

resources;

(g) a building site or construction, or assembly project which exists for more than twelve months.

3. The term "permanent establishment" shall not be deemed to include:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 5 applies - shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other.

Chapter III

Taxation of income

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. Izraz "nepremičnine" ima pomen, ki ga določa pravo države pogodbenice, v kateri je ta nepremičnina. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere veljajo določbe splošnega prava v zvezi z zemljiško lastnino. Užitek na nepremičninah in pravice do spremenljivih ali stalnih plačil kot odškodnina za izkoriščanje ali pravico do izkoriščanja nahajališč rude, virov ter drugega naravnega bogastva se prav tako štejejo za "nepremičnine". Ladje, čolni in letala se ne štejejo za nepremičnine.

3. Določbe prvega odstavka se uporabljajo za dohodek, ki se ustvari z neposredno uporabo, dajanjem v najem ali katero koli drugo obliko uporabe nepremičnine.

4. Določbe prvega in tretjega odstavka se uporabljajo tudi za dohodek iz nepremičnin podjetja in za dohodek iz nepremičnin, ki se uporabljajo za opravljanje samostojnih osebnih storitev.

7. člen POSLOVNI DOBIČEK

1. Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje posluje v drugi državi pogodbenici prek stalne poslovne enote v njej. Če podjetje posluje, kot je prej omenjeno, se lahko dobiček podjetja obdavči v drugi državi, vendar samo toliko dobička, kot se pripiše tej stalni poslovni enoti.

2. Ob upoštevanju določb tretjega odstavka, kadar podjetje države pogodbenice posluje v drugi državi pogodbenici prek stalne poslovne enote v njej, se v vsaki državi pogodbenici tej stalni poslovni enoti pripiše dobiček, za katerega bi se lahko pričakovalo, da bi ga imela, če bi bila različno in ločeno podjetje, ki opravlja enake ali podobne dejavnosti pod istimi ali podobnimi pogoji ter povsem neodvisno posluje s podjetjem, katerega stalna poslovna enota je.

3. Pri določanju dobička stalne poslovne enote je dovoljeno odšteti stroške, ki nastanejo za namene stalne poslovne enote, vključno s poslovnimi in splošnimi upravnimi stroški, ki nastanejo bodisi v državi, v kateri je stalna poslovna enota, ali drugje.

4. Če se v državi pogodbenici dobiček, ki se pripiše stalni poslovni enoti, običajno določi na podlagi porazdelitve vsega dobička podjetja na njegove dele, nič v drugem odstavku tej državi pogodbenici ne preprečuje določiti obdavčljivega dobička z običajno porazdelitvijo. Sprejeta metoda porazdelitve dobička pa mora biti taka, da je rezultat v skladu z načeli tega člena.

5. Stalni poslovni enoti se ne pripiše dobiček samo zato, ker ta stalna poslovna enota nakupuje dobrine ali blago za podjetje.

6. Za namene prejšnjih odstavkov se dobiček, ki se pripiše stalni poslovni enoti, vsako leto določi po isti metodi, razen če je upravičen in zadosten razlog za nasprotno.

7. Kadar dobiček vključuje dohodkovne postavke, ki so posebej obravnavane v drugih členih te konvencije, določbe tega člena ne vplivajo na določbe tistih členov.

2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply. Usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources shall also be considered as "immovable property". Ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7 BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deduction expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

8. člen

POMORSKI IN LETALSKI PREVOZ

1. Dobiček iz opravljanja ladijskih ali letalskih prevozov v mednarodnem prometu se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

2. Če je sedež dejanske uprave ladjarskega podjetja na krovu ladje, se šteje, da je v državi pogodbenici, v kateri ima ladja matično pristanišče, ali če nima takega matičnega pristanišča, v državi pogodbenici, katere rezident je ladijski prevoznik.

3. Določbe prvega odstavka se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju (pool), mešanem podjetju ali mednarodni prevoznici.

9. člen

POVEZANA PODJETJA

1. Kadar:

a) je podjetje države pogodbenice neposredno ali posredno udeleženo pri upravljanju, nadzoru ali v kapitalu podjetja druge države pogodbenice

ali

b) so iste osebe neposredno ali posredno udeležene pri upravljanju, nadzoru ali v kapitalu podjetja države pogodbenice in podjetja druge države pogodbenice

in v obeh primerih obstajajo ali se uvedejo med podjetjema v njunih komercialnih ali finančnih odnosih pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se kakršen koli dobiček, ki bi prirastel enemu od podjetij, če takih pogojev ne bi bilo, vendar prav zaradi takih pogojev ni prirastel, lahko vključi v dobiček tega podjetja in ustrezno obdavči.

2. Kadar država pogodbenica v dobiček podjetja te države vključuje in ustrezno obdavči dobiček, za katerega je bilo že obdavčeno podjetje druge države pogodbenice v tej drugi državi in je tako vključeni dobiček dobiček, ki bi prirastel podjetju prve omenjene države, če bi bili pogoji, ki obstajajo med podjetjema, taki, kot bi obstajali med neodvisnimi podjetji, ta druga država ustrezno prilagodi znesek davka, ki se v tej državi zaračuna od tega dobička. Vsaka taka prilagoditev pa se določi samo v skladu s postopkom skupnega dogovora iz 26. člena.

10. člen

DIVIDENDE

1. Dividende, ki jih družba, ki je rezident države pogodbenice, plača rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Take dividende pa se lahko obdavčijo tudi v državi pogodbenici, katere rezident je družba, ki dividende plačuje, in v skladu z zakonodajo te države, če pa je prejemnik upravičeni lastnik dividend, tako obračunani davek ne presega:

a) 5 odstotkov bruto zneska dividend, če je upravičeni lastnik družba (ki ni osebna družba), ki ima neposredno v lasti najmanj 25 odstotkov kapitala družbe, ki plačuje dividende;

b) 15 odstotkov bruto zneska dividend v vseh drugih primerih.

Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. The provisions of paragraph 1 shall also apply to profits derived from the participation in a pool, a joint business or in an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

1. Where

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State,

or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State -and taxes accordingly- profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. Any such adjustment shall be made only in accordance with the mutual agreement procedure as provided for in Article 26.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

(a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;

(b) 15 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

Ta odstavek ne vpliva na obdavčenje družbe v zvezi z dobičkom, iz katerega se plačajo dividende.

3. Izraz "dividende", kot je uporabljen v tem členu, pomeni dohodek iz delnic, "jouissance" delnic ali pravic, rudniških delnic, ustanoviteljskih delnic ali drugih pravic do udeležbe v dobičku, ki niso terjatve, in tudi dohodek iz drugih pravic v družbi, ki se davčno obravnava enako kot dohodek iz delnic po davčni zakonodaji države, katere rezident je družba, ki dividende deli.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik dividend, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, katere rezident je družba, ki dividende plačuje, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto ali stalno bazo. V takem primeru se dividende obdavčijo v tej drugi državi pogodbenici po njeni zakonodaji.

5. Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izhaja iz druge države pogodbenice, ta druga država ne sme uvesti nobenega davka na dividende, ki jih plača družba, razen če se te dividende plačajo rezidentu te druge države ali če je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s stalno poslovno enoto ali stalno bazo v tej drugi državi, niti ne sme uvesti davka od nerazdeljenega dobička na nerazdeljeni dobiček družbe, tudi če so plačane dividende ali nerazdeljeni dobiček v celoti ali delno sestavljeni iz dobička ali dohodka, ki nastane v taki drugi državi.

11. člen OBRESTI

1. Obresti, ki nastanejo v državi pogodbenici in se izplačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je prejemnik upravičeni lastnik obresti, tako zaračunani davek ne presega 10 odstotkov bruto zneska obresti. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

3. Ne glede na določbe drugega odstavka so obresti, ki nastanejo v državi pogodbenici, oproščene davka v tej državi, če:

a) obresti plača vlada te države pogodbenice ali njena lokalna oblast, ali

b) se obresti plačajo vladi druge države pogodbenice ali njeni lokalni oblasti ali kateri koli agenciji ali organizaciji (vključno s finančno ustanovo), ki je popolnoma v lasti te druge države pogodbenice ali njene lokalne oblasti, ali

c) se obresti plačajo kateri koli drugi agenciji ali organizaciji (vključno s finančno ustanovo) v zvezi s posojili, danimi na podlagi sporazuma, sklenjenega med vladama držav pogodbenic.

4. Izraz "obresti", kot je uporabljen v tem členu, pomeni dohodek iz državnih vrednostnih papirjev, obveznic ali zadolžnic ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali imajo pravico do udeležbe v dobičku, in iz vseh vrst terjatev ter ves drug dohodek, ki je po davčni zakonodaji države, v kateri tak dohodek nastane, izenačen z dohodkom od posojenega denarja.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case the dividends are taxable in that other Contracting State according to its own law.

5. Where a company which is a resident of a Contracting State, derives profits or income from the other Contracting State that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the law of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if:

a) the payer of the interest is the Government of that Contracting State or a local authority thereof; or

b) the interest is paid to the Government of the other Contracting State or local authority thereof or any agency or instrumentality (including a financial institution) wholly owned by that other Contracting State or local authority thereof; or

c) the interest is paid to any other agency or instrumentality (including a financial institution) in relation to loans made in application of an agreement concluded between the Governments of the Contracting States.

4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

5. Določbe prvega do tretjega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto ali stalno bazo. V takem primeru se obresti obdavčijo v tej drugi državi po njeni zakonodaji.

6. Šteje se, da obresti nastanejo v državi pogodbenici, kadar je plačnik ta država, politična ali upravna enota, lokalna oblast ali rezident te države. Kadar pa ima oseba, ki plačuje obresti, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala zadolžitev, za katero se plačajo obresti, ter take obresti krije taka stalna poslovna enota ali stalna baza, se šteje, da take obresti nastanejo v državi pogodbenici, v kateri je stalna poslovna enota ali stalna baza.

7. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek obresti glede na terjatev, za katero se plačajo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

12. člen

LICENČNINE IN AVTORSKI HONORARJI

1. Licenčnine in avtorski honorarji, ki nastanejo v državi pogodbenici in se plačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakoni te države, če pa je prejemnik upravičeni lastnik licenčnih in avtorskih honorarjev, tako zaračunani davek ne presega 5 odstotkov bruto zneska licenčnih in avtorskih honorarjev. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

3. Izraz "licenčnine in avtorski honorarji", kot je uporabljen v tem členu, pomeni plačila vsake vrste, prejeta kot povračilo za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno, umetniško ali znanstveno delo, vključno s kinematografskimi filmi ali trakovi za televizijske ali radijske oddaje, kakršnega koli patenta, blagovne znamke, vzorca ali modela, načrta, tajne formule ali postopka ali za uporabo ali pravico do uporabe industrijske, komercialne ali znanstvene opreme ali za informacije o industrijskih, komercialnih ali znanstvenih izkušnjah.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčnih in avtorskih honorarjev, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri licenčnine in avtorski honorarji nastanejo, prek stalne poslovne enote v njej ali v tej drugi državi opravlja samostojne osebne storitve iz stalne baze v njej ter je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se licenčnine in avtorski honorarji obdavčijo v tej drugi državi po njeni zakonodaji.

5. The provisions of paragraphs from 1 to 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State, in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case, the interest is taxable in that other Contracting State according to its own law.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 5 per cent of the gross amount of such royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph-films, or tapes for television or broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, and for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraph 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case, the royalties are taxable in that other Contracting State according to its own law.

5. Šteje se, da so licenčnine in avtorski honorarji nastali v državi pogodbenici, kadar je plačnik ta država, politična ali upravna enota, lokalna oblast ali rezident te države. Kadar pa ima oseba, ki plačuje licenčnine in avtorske honorarje, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala obveznost za plačilo licenčnin in avtorskih honorarjev ter take licenčnine in avtorske honorarje krije taka stalna poslovna enota ali stalna baza, se šteje, da so take licenčnine in avtorski honorarji nastali v državi, v kateri je stalna poslovna enota ali stalna baza.

6. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in neko drugo osebo znesek licenčnin in avtorskih honorarjev glede na uporabo, pravico ali informacijo, za katero se plačujejo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

13. člen KAPITALSKI DOBIČEK

1. Dobiček, ki ga rezident države pogodbenice doše z odtujitvijo nepremičnin, ki so omenjene v 6. členu in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Dobiček iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnin, ki se nanašajo na stalno bazo, ki jo ima rezident države pogodbenice na voljo v drugi državi pogodbenici za namen opravljanja samostojnih osebnih storitev, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem) ali take stalne baze, se lahko obdavči v tej drugi državi.

3. Dobiček iz odtujitve ladij ali letal, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premičnin, ki se nanašajo na opravljanje prevozov s takimi ladjami ali letali, se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

4. Dobiček iz odtujitve kakršnega koli premoženja, ki ni premoženje, navedeno v prvem, drugem in tretjem odstavku, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

14. člen SAMOSTOJNE OSEBNE STORITVE

1. Dohodek, ki ga dobi rezident države pogodbenice iz poklicnih storitev ali drugih podobnih samostojnih dejavnosti, se obdavči samo v tej državi, razen če ima stalno bazo, ki mu je redno na voljo v drugi državi pogodbenici za namen opravljanja njegovih dejavnosti. Če ima tako stalno bazo, se dohodek lahko obdavči v drugi državi pogodbenici, a samo toliko dohodka, kolikor se lahko pripíše tej stalni bazi.

2. Izraz "poklicne storitve" vključuje še posebej samostojne znanstvene, literarne, umetniške, izobraževalne ali pedagoške dejavnosti kot tudi samostojne dejavnosti zdravnikov, odvetnikov, inženirjev, arhitektov, zobozdravnikov in računovodij.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13 CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14 INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes, especially, independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

15. člen

ODVISNE OSEBNE STORITVE

1. V skladu z določbami 16., 18., 19., 20. in 21. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako pridobljeni prejemki obdavčijo v tej drugi državi.

2. Ne glede na določbe prvega odstavka se prejemek, ki ga dobi rezident države pogodbenice iz zaposlitve, ki se izvaja v drugi državi pogodbenici, obdavči samo v prvi omenjeni državi, če:

a) je prejemnik navzoč v drugi državi v obdobju ali obdobjih, ki ne presegajo skupno 183 dni v katerem koli obdobju dvanajstih mesecev, ki se začne ali konča v zadevnem davčnem letu, in

b) prejemek plača delodajalec, ki ni rezident druge države, oziroma se plača v njegovem imenu, in

c) prejemka ne krije stalna poslovna enota ali stalna baza, ki jo ima delodajalec v drugi državi.

3. Ne glede na prejšnje določbe tega člena se prejemek, ki izhaja iz zaposlitve na ladji ali letalu, s katerim se opravljajo prevozi v mednarodnem prometu, lahko obdavči v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

16. člen

PLAČILA DIREKTORJEM

Plačila direktorjem in druga podobna plačila, ki jih dobi rezident države pogodbenice kot član upravnega odbora družbe, ki je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

17. člen

UMETNIKI IN ŠPORTNIKI

1. Ne glede na določbe 14. in 15. člena se dohodek, ki ga dobi rezident države pogodbenice kot nastopajoči izvajalec, kot je gledališki, filmski, radijski ali televizijski umetnik ali glasbenik, ali kot športnik iz takšnih osebnih dejavnosti, ki jih izvaja v drugi državi pogodbenici, lahko obdavči v tej drugi državi.

2. Kadar dohodek iz osebnih dejavnosti, ki jih izvaja nastopajoči izvajalec ali športnik kot tak, ne priraste samemu nastopajočemu izvajalcu ali športniku, temveč drugi osebi, se ta dohodek kljub določbam 7., 14. in 15. člena lahko obdavči v državi pogodbenici, v kateri se izvajajo dejavnosti nastopajočega izvajalca ali športnika.

3. Ne glede na določbe prvega in drugega odstavka se dohodek iz tega člena ne obdavči v državi pogodbenici, v kateri se izvajajo dejavnosti nastopajočega izvajalca ali športnika, če se take dejavnosti pretežno financirajo z javnimi sredstvi obeh držav ali se izvajajo v okviru kulturnega sporazuma med državama pogodbenicama.

18. člen

POKOJNINE

1. V skladu z določbami drugega odstavka 19. člena se pokojnine in drugi podobni prejemki, ki se plačajo rezidentu države pogodbenice za preteklo zaposlitev, obdavčijo samo v tej državi.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income referred to in this Article shall be exempt from tax in the Contracting State in which the activities of the entertainer or sportsman are exercised, if such activities are substantially financed from the public funds of the both States, or are carried on under culture cooperation agreement between the Contracting States.

Article 18

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. Kadar rezident države pogodbenice postane rezident druge države pogodbenice, se plačila, ki jih tak rezident prejme ob prenehanju svoje zaposlitve v prvi omenjeni državi kot odpravnino (odškodnino), ali podobna pavšalna izplačila obdavčijo samo v tej prvi omenjeni državi pogodbenici. V tem odstavku izraz "odpravnina (odškodnina)" vključuje kakršna koli izplačila zaradi prenehanja opravljanja kakršne koli funkcije ali zaposlitve osebe.

19. člen
DRŽAVNA SLUŽBA

1. a) Plače, mezde in drugi podobni prejemki razen pokojnin, ki jih plačuje država pogodbenica ali njena politična ali upravna enota ali lokalna oblast posamezniku za storitve, ki jih opravi za to državo ali enoto ali oblast, se obdavčijo samo v tej državi.

b) Taki prejemki pa se obdavčijo samo v drugi državi pogodbenici, če so storitve opravljene v tej državi in je posameznik rezident te države, ki:

- (i) je državljan te države, ali
- (ii) ni postal rezident te države samo za namen opravljanja storitev.

2. a) Vsaka pokojnina, plačana iz skladov države pogodbenice ali njene politične ali upravne enote ali lokalne oblasti posamezniku za storitve, opravljene za to državo ali enoto ali oblast, se obdavči samo v tej državi.

b) Taka pokojnina pa se obdavči samo v drugi državi pogodbenici, če je posameznik državljan in rezident te države.

3. Določbe 15., 16. in 18. člena se uporabljajo za prejemke ali pokojnine za storitve, opravljene v zvezi s posli države pogodbenice ali njene politične ali upravne enote ali lokalne oblasti.

20. člen
PROFESORJI, UČITELJI IN RAZISKOVALCI

Profesor, učitelj ali raziskovalec, ki v obdobju, ki ni daljše od dveh let, začasno obišče državo pogodbenico zaradi poučevanja ali raziskovanja na univerzi, višji oziroma visoki šoli, šoli ali kateri koli drugi izobraževalni ustanovi in je ali je bil tik pred tem obiskom rezident druge države pogodbenice, je v prvi omenjeni državi pogodbenici oproščen davka od prejemkov za tako poučevanje ali raziskovanje.

21. člen
ŠTUDENTI

Plačila, ki jih študent ali pripravnik, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in je v prvi omenjeni državi pogodbenici navzoč samo za namen svojega izobraževanja ali usposabljanja, prejme za svoje vzdrževanje, izobraževanje ali usposabljanje, se ne obdavčijo v tej državi pod pogojem, da taka plačila nastanejo iz virov zunaj te države.

22. člen
DRUGI DOHODKI

1. Deli dohodka rezidenta države pogodbenice, ki nastanejo kjer koli in niso obravnavani v predhodnih členih te konvencije, se obdavčijo samo v tej državi.

2. If a resident of a Contracting State becomes a resident of the other Contracting State, payments received by such resident on the cessation of his employment in the first-mentioned State as severance payments (indemnities) or similar lump sum payments shall be taxable only in that first-mentioned Contracting State. In this paragraph, the expression "severance payments (indemnities)" includes any payment made in consequence of the termination of any office or employment of a person.

Article 19
GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remunerations, other than a pension, paid by a Contracting State or a political or administrative subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State, who:

- (i) is a national of that State, or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

2. a) Any pension paid by, or out of funds created by, a Contracting State or a political or administrative subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the individual is a national of and a resident of that State.

3. The provisions of Articles 15, 16 and 18 shall apply to remunerations or pensions in respect of services rendered in connection with business carried on by one of the Contracting State or a political or administrative subdivision or a local authority thereof.

Article 20
PROFESSORS, TEACHERS AND RESEARCHERS

A professor, a teacher or a researcher who makes a temporary visit to a Contracting State for a period not exceeding two years for the purpose of teaching or conducting research at a university, college, school or other educational institution, and who is, or immediately before such visit was, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State in respect of remuneration for such teaching or research.

Article 21
STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 22
OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. Določbe prvega odstavka se ne uporabljajo za dohodek, ki ni dohodek iz nepremičnin, kot so opredeljene v drugem odstavku 6. člena, če prejemnik takega dohodka, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej in je pravica ali premoženje, za katero se plača dohodek, dejansko povezano s to stalno poslovno enoto ali stalno bazo. V takem primeru se deli dohodka obdavčijo v tej drugi državi pogodbenici po njeni zakonodaji.

23. člen PREMOŽENJE

1. Premoženje, ki ga predstavljajo nepremičnine iz 6. člena v lasti rezidenta države pogodbenice in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Premoženje, ki ga predstavljajo premičnine, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnine v zvezi s stalno bazo, ki je na voljo rezidentu države pogodbenice v drugi državi pogodbenici za opravljanje samostojnih osebnih storitev, se lahko obdavči v tej drugi državi.

3. Premoženje, ki ga predstavljajo ladje ali letala, s katerimi se opravljajo prevozi v mednarodnem prometu, in premičnine v zvezi s opravljanjem prevozov s takimi ladjami in letali, se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

4. Vsi drugi elementi premoženja rezidenta države pogodbenice se obdavčijo samo v tej državi.

IV. poglavje

Metode za odpravo dvojnega obdavčevanja

24. člen

ODPRAVA DVOJNEGA OBDAVČEVANJA

1. Dogovorjeno je, da se dvojno obdavčevanje odpravi v skladu z naslednjimi odstavki tega člena.

2. V Italiji:

Če ima rezident Italije v lasti dohodkovne postavke, ki so obdavčljive v Sloveniji, lahko Italija pri določanju svojih davkov od dohodka, kot so opredeljeni v 2. členu te konvencije, take dohodkovne postavke vključi v davčno osnovo, razen če posebne določbe te konvencije določajo drugače.

V takem primeru Italija od tako izračunanih davkov odšteje davek od dohodka, plačan v Sloveniji, vendar samo v znesku, ki ne presega tistega deleža prej omenjenega italijanskega davka, ki ga take dohodkovne postavke predstavljajo v celotnem dohodku.

Odbitek davka pa se ne dovoli, če v Italiji za to dohodkovno postavko po italijanski zakonodaji na zahtevo prejemnika tega dohodka velja dokončni davek po odbitku.

3. V Sloveniji:

a) Kadar rezident Slovenije dobi dohodek ali ima v lasti premoženje, ki se v skladu z določbami te konvencije lahko obdavči v Italiji, Slovenija dovoli:

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the items of income are taxable in that other Contracting State according to its own law.

Article 23 CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services may be taxed in that other State.

3. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State, in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Chapter IV

Methods for elimination of double taxation

Article 24

ELIMINATION OF DOUBLE TAXATION

1. It is agreed that double taxation shall be avoided in accordance with the following paragraphs of this Article.

2. In the case of Italy, if a resident of Italy owns items of income which are taxable in Slovenia, Italy, in determining its income taxes specified in Article 2 of this Convention, may include in the basis upon which such taxes are imposed the said items of income, unless specific provisions of this Convention otherwise provide.

In such a case, Italy shall deduct from the taxes so calculated the income tax paid in Slovenia but in an amount not exceeding that proportion of the aforesaid Italian tax which such items of income bear to the entire income.

However, no deduction will be granted if the item of income is subjected in Italy to a final withholding tax by request of the recipient of the said income in accordance with the Italian law.

3. In the case of Slovenia:

a) Where a resident of Slovenia derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Italy, Slovenia shall allow:

i) kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Italiji;

ii) kot odbitek od davka od premoženja tega rezidenta znesek, ki je enak davku od premoženja, plačanemu v Italiji.

Tak odbitek pa v nobenem primeru ne sme presehati tistega dela davka od dohodka ali premoženja, ki je bil izračunan pred odbitkom, pripisanim dohodku ali premoženju, odvisno od primera, ki se lahko obdavči v Italiji;

b) kadar je v skladu s katero koli določbo te konvencije dohodek, ki ga rezident Slovenije dobi, ali premoženje, ki ga ima v lasti, oproščeno davka v Sloveniji, lahko Slovenija pri izračunu zneska davka od preostalega dohodka ali premoženja takega rezidenta vseeno upošteva oproščeni dohodek ali premoženje.

i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Italy;

ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Italy.

Such deduction shall in no case exceed that portion of the income tax or capital tax which has been computed before making the deduction which is attributable to the income or the capital, as the case may be, which may be taxed in Italy.

b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Slovenia is exempt from tax in Slovenia, Slovenia may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

V. poglavje

Posebne določbe

25. člen

ENAKO OBRAVNAVANJE

1. Državljeni države pogodbenice ne smejo biti v drugi državi pogodbenici zavezani kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te druge države v enakih okoliščinah. Ta določba se ne glede na določbe 1. člena uporablja tudi za osebe, ki niso rezidenti ene ali obeh držav pogodbenic.

2. Obdavčevanje stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ne sme biti manj ugodno v tej drugi državi, kot je obdavčevanje podjetij te druge države, ki opravljajo enake dejavnosti. Ta določba se ne razlaga, kot da zavezuje državo pogodbenico, da prizna rezidentom druge države pogodbenice kakršne koli osebne olajšave, druge olajšave in znižanja za davčne namene zaradi osebnega stanja ali družinskih obveznosti, ki jih priznava svojim rezidentom.

3. Razen kadar se uporabljajo določbe prvega odstavka 9. člena, sedmega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih plača podjetje države pogodbenice rezidentu druge države pogodbenice, pri določanju obdavčljivega dobička takega podjetja odbijejo pod istimi pogoji, kot če bi bili plačani rezidentu prve omenjene države.

4. Podjetja države pogodbenice, katerih kapital je v celoti ali delno, neposredno ali posredno v lasti ali pod nadzorom enega ali več rezidentov druge države pogodbenice, ne smejo biti v prvi omenjeni državi pogodbenici zavezana kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve do drugih podobnih podjetij te prve omenjene države.

5. Določbe tega člena se uporabljajo ne glede na določbe 2. člena za davke vseh vrst in opisov.

Chapter V

Special Provisions

Article 25

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

26. člen

POSTOPEK SKUPNEGA DOGOVORA

1. Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanjo za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ta oseba ne glede na sredstva, ki ji jih omogoča domača zakonodaja teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njen primer nanaša na prvi odstavek 25. člena, tiste države pogodbenice, katere državljan je. Zadeva mora biti predložena v dveh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčevanje, ki ni v skladu z določbami konvencije.

2. Pristojni organ si, če se mu zdi pritožba upravičena in če sam ne more priti do zadovoljive rešitve, prizadeva rešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice z namenom izogniti se obdavčevanju, ki ni v skladu s konvencijo. Vsak dosežen dogovor se izvaja ne glede na roke v domači zakonodaji držav pogodbenic.

3. Pristojna organa držav pogodbenic si prizadevata s skupnim dogovorom razrešiti kakršne koli težave ali dvome, ki nastanejo pri razlagi ali uporabi konvencije. Prav tako se lahko med seboj posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih ta konvencija ne predvideva.

4. Pristojna organa držav pogodbenic lahko neposredno komunicirata med seboj, da bi dosegla dogovor v smislu prejšnjih odstavkov. Kadar se za doseg dogovora zdi priporočljiva ustna izmenjava mnenj, taka izmenjava lahko poteka prek komisije, ki je sestavljena iz predstavnikov pristojnih organov držav pogodbenic.

5. Če pristojna organa držav pogodbenic v primerih iz prejšnjih odstavkov ne dosežeta dogovora o odpravi dvojnega obdavčevanja v dveh letih od datuma, ko je bila zadeva prvič predložena enemu od njiju, in se davkopllačevalec/davkopllačevalci strinja(jo), da bo(do) spoštoval(i) sklep arbitražne komisije, lahko pristojna organa za vsako posamezno zadevo posebej ustanovita tako arbitražno komisijo, katere naloga je pripraviti izvedensko mnenje o načinu odprave dvojnega obdavčevanja. Komisija se lahko ustanovi samo, če stranki v sporu vnaprej – brez kakršnih koli pridržkov ali pogojev – odstopita od vseh sodnih postopkov, ki potekajo pred domačimi sodišči.

Arbitražno komisijo sestavljajo trije člani, ki so imenovani takole: vsak pristojni organ imenuje enega člana in ta dva člana sporazumno imenujeta predsednika, ki se izbere med neodvisnimi izvedenci ene ali druge države pogodbenice ali iz druge države članice OECD.

Pri pripravi svojega mnenja arbitražna komisija uporablja določbe te konvencije in načela mednarodnega prava, upošteva pa tudi notranjo zakonodajo držav pogodbenic. Arbitražna komisija določi svoj poslovnik.

Prizadeta oseba je lahko na zahtevo zaslišana ali zastopana pred arbitražno komisijo in taka oseba mora, ko zahteva komisija, priti pred komisijo ali v ta namen imenovati svojega zastopnika.

Article 26

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention. Any agreement reached shall be applied notwithstanding any time limits in the domestic laws of the Contracting State.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

5. In the cases provided for in the preceding paragraphs, if the competent authorities of the Contracting States do not reach an agreement for the avoidance of double taxation within two years from the date on which the case has been first presented to one of them, and the taxpayer(s) agree(s) to be bound by the decision of an arbitration board, the competent authorities may establish such an arbitration board for each specific case, which is entrusted with giving an expert opinion on the method for the elimination of double taxation. The board can only be established if the parties concerned previously waive - without any reservations or conditions - the pending legal proceedings at the domestic court.

The arbitration board shall consist of three members appointed in the following manner: each competent authority shall appoint a member and the two members shall appoint by mutual agreement the Chairman who shall be chosen among independent experts from either Contracting State or from another OECD member country.

When giving its opinion, the arbitration board shall apply the provisions of this Convention and principles of international law, taking into account the domestic laws of the Contracting States. The arbitration board shall establish its own rules of procedure.

The person concerned may upon request be heard or be represented before the arbitration board and, when requested by the board, such person shall appear before it or appoint a representative for such purpose.

6. Arbitražna komisija da svoje mnenje v šestih mesecih od datuma, ko ji je bila zadeva predložena. Komisija odloča z večino glasov svojih članov. Pri različnem glasovanju članov, ki jih je imenoval vsak pristojni organ, je odločilen predsednikov glas.

V šestih mesecih od datuma, ko arbitražna komisija da svoje izvedensko mnenje, pristojna organa v skupnem dogovoru sprejmeta ukrepe za odpravo vzroka davčnega spora. Tako sprejeti ukrepi so lahko tudi v neskladju z mnenjem arbitražne komisije. Če pristojna organa v šestih mesecih od datuma, ko arbitražna komisija da svoje izvedensko mnenje, ne dosežeta dogovora o odpravi vzroka davčnega spora, se morata ravnati po mnenju komisije in ga izvesti.

7. Stroški arbitražnega postopka se v enakih deležih razdelijo med državi pogodbenici.

27. člen

IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjavata take informacije, ki so potrebne za izvajanje določb te konvencije ali notranje zakonodaje držav pogodbenic glede davkov, za katere se uporablja ta konvencija, kolikor obdavčevanje na njihovi podlagi ni v nasprotju s konvencijo; izmenjavata si tudi informacije za preprečevanje davčnih utaj. Izmenjava informacij ni omejena s 1. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po notranji zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženi pri odmeri ali pobiranju, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov, za katere se uporablja konvencija. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo na sodnih obravnavah ali pri sodnih odločitvah.

2. V nobenem primeru se določbe prvega odstavka ne razlagajo, kot da nalagajo državi pogodbenici obveznost:

a) da izvaja upravne ukrepe, ki niso v skladu z zakonodajo ali upravno prakso te ali druge države pogodbenice;

b) da priskrbi informacije, ki jih ni mogoče dobiti po zakonski ali običajni upravni poti te ali druge države pogodbenice;

c) da priskrbi informacije, ki bi razkrile kakršno koli trgovinsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinske postopke, ali informacije, katerih razkritje bi bilo v nasprotju z javnim redom.

28. člen

DIPLOMATSKI PREDSTAVNIKI IN KONZULARNI USLUŽBENCI

Nič v tej konvenciji ne vpliva na davčne ugodnosti diplomatskih predstavnikov ali konzularnih uslužbencev po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

6. The opinion of the arbitration board shall be given within six months from the date on which the case has been presented. The board shall rule with a majority vote of its members. In case of divergence of the voting of the members appointed by each competent authority, the Chairman's vote shall prevail.

Within six months from the date on which the arbitration board has expressed its expert opinion, the competent authorities shall, by mutual agreement, adopt measures aiming at removing the reason of the tax dispute. The measures so adopted may also not comply with the opinion of the arbitration board. If the competent authorities do not reach an agreement to remove the reason of the tax dispute within six months from the date on which the arbitration board has expressed its opinion, they shall comply with and execute such opinion.

7. Costs for the arbitration procedure shall be divided equally between the Contracting States.

Article 27

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to the Convention as well as to prevent fiscal evasion. The exchange of information is not restricted by article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of the State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process or information, the disclosure of which would be contrary to public policy (ordre public).

Article 28

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

29. člen
POVRAČILA

1. Davki, zadržani pri viru v državi pogodbenici, se povrnejo na zahtevo davkoplačevalca ali države, katere rezident je, če določbe te konvencije vplivajo na pravico do pobiranja takih davkov.

2. Zahtevku za vračilo davka, ki ga je treba predložiti v roku, določenem z zakonodajo države pogodbenice, ki mora vrniti davek, mora biti priloženo uradno potrdilo države pogodbenice, katere rezident je davkoplačevalec, da obstajajo pogoji, pod katerimi je davkoplačevalec lahko upravičen do povračila iz te konvencije.

3. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe tega člena v skladu z določbami 26. člena te konvencije.

VI. poglavje

Končne določbe

30. člen
ZAČETEK VELJAVNOSTI

1. Konvencija se ratificira in listini o ratifikaciji se izmenjata, kakor hitro je to mogoče, v Rimu.

2. Konvencija začne veljati na datum izmenjave listin o ratifikaciji in njene določbe se uporabljajo:

a) v zvezi z davki, zadržanimi pri viru, za zneske, dobljene prvega januarja ali po prvem januarju v katerem koli koledarskem letu, ki sledi letu, v katerem je konvencija začela veljati;

b) v zvezi z drugimi davki od dohodka in premoženja za davke, ki se obračunajo za katero koli davčno obdobje, z začetkom prvega januarja ali po prvem januarju v katerem koli koledarskem letu, ki sledi letu, v katerem je konvencija začela veljati.

3. Določbe Konvencije med Socialistično federativno republiko Jugoslavijo in Italijansko republiko o izogibanju dvojnemu obdavčevanju dohodka in premoženja, ki je bila podpisana 24. februarja 1982 v Beogradu, prenehajo veljati za vse slovenske ali italijanske davke, za katere začne veljati ta konvencija v skladu z drugim odstavkom.

31. člen
PRENEHANJE VELJAVNOSTI

Ta konvencija velja, dokler je ena od držav pogodbenic ne odpove. Vsaka država pogodbenica lahko odpove konvencijo po diplomatski poti z obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta po obdobju petih let od datuma začetka veljavnosti konvencije. V tem primeru se konvencija preneha uporabljati:

a) v zvezi z davki, zadržanimi pri viru za zneske, dobljene prvega januarja ali po prvem januarju katerega koli koledarskega leta, ki sledi letu, v katerem je bilo dano obvestilo;

Article 29
REFUNDS

1. Taxes withheld at the source in a Contracting State will be refunded by request of the taxpayer or of the State of which he is a resident if the right to collect the said taxes is affected by the provisions of this Convention.

2. Claims for refund, that shall be produced within the time limit fixed by the law of the Contracting State which is obliged to carry out the refund, shall be accompanied by an official certificate of the Contracting State of which the taxpayer is a resident certifying the existence of the conditions required for being entitled to the application of the allowances provided for by this Convention.

3. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article, in accordance with the provisions of Article 26 of this Convention.

Chapter VI

Final Provisions

Article 30
ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.

2. The Convention shall enter into force on the date of the exchange of instruments of ratification and its provisions shall have effect:

(a) in respect of taxes withheld at source, to amounts derived on or after 1st January in any calendar year next following that in which the Convention enters into force.

(b) in respect of other taxes on income and on capital, to taxes chargeable for any taxable period beginning on or after 1st January in any calendar year next following that in which the Convention enters into force.

3. The Convention between the Socialist Federal Republic of Yugoslavia and the Italian Republic for the avoidance of double taxation with respect to taxes on income and on capital signed in Belgrade, on 24th February 1982, shall cease to be effective with respect to any Slovenian or Italian tax for which the present Convention becomes effective in accordance with the provisions of paragraph 2.

Article 31
TERMINATION

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the period of five years from the date on which the Convention enters into force. In such event, the Convention shall cease to have effect:

a) in respect of taxes withheld at source, to amounts derived on or after 1st January in the calendar year next following that in which the notice is given.

b) v zvezi z drugimi davki od dohodka in premoženja, za davke, ki se obračunajo za katero koli davčno obdobje z začetkom prvega januarja ali po prvem januarju v koledarskem letu, ki sledi letu, v katerem je bilo dano obvestilo.

V DOKAZ NAVEDENEGA STA PODPISANA, KI STA BILA ZA TO PRAVILNO POOBLAŠČENA, PODPISALA TO KONVENCIJO.

Sestavljeno v dveh izvornikih v Ljubljani dne 11. 9. 2001 v slovenskem, italijanskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna, razen v primeru dvoma glede razlage ali uporabe, ko prevlada angleško besedilo.

Za Vlado Republike Slovenije
dr. Dimitrij Rupel l. r.

Za Vlado Italijanske republike
Renato Ruggiero l. r.

DODATNI PROTOKOL

h Konvenciji med Vlado Republike Slovenije in Vlado Italijanske republike o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja

Ob podpisu konvencije, ki je bila danes sklenjena med Vlado Republike Slovenije in Vlado Italijanske republike o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, sta se podpisana sporazumela o teh dodatnih določbah, ki so sestavni del omenjene konvencije.

Razume se, da:

1. v zvezi s točko b) tretjega odstavka 2. člena, če bo Italija v prihodnje uvedla davek na premoženje, ta konvencija velja tudi za ta davek in se dvojno obdavčevanje odpravi po določbah drugega odstavka 24. člena konvencije;

2. v zvezi s tretjim odstavkom 7. člena izraz "stroški, ki nastanejo za namene stalne poslovne enote" pomeni stroške, ki so neposredno povezani z dejavnostjo stalne poslovne enote;

3. v zvezi z 8. členom dobiček iz opravljanja ladijskih ali letalskih prevozov v mednarodnem prometu vključuje:

a) dohodek iz najema praznih ladij in letal, kadar je to občasni vir dohodka za podjetje, ki opravlja mednarodne ladijske ali letalske prevoze;

b) dobiček, ki ga dobi podjetje, ki opravlja mednarodne prevoze, iz uporabe, vzdrževanja ali najema zabojnikov (vključno s priklopniki in sorodno opremo za prevoz zabojnikov), uporabljenih za prevoz dobrin in blaga, če je tak najem ali taka uporaba, vzdrževanje ali najem, odvisno od primera, dodatna ali občasna dejavnost k opravljanju mednarodnih ladijskih ali letalskih prevozov;

b) in respect of other taxes on income and on capital, to taxes chargeable for any taxable period beginning on or after 1st January in the calendar year next following that in which the notice is given.

IN WITNESS THEREOF THE UNDERSIGNED, DULY AUTHORIZED THERETO, HAVE SIGNED THIS CONVENTION.

Done in duplicate at Ljubljana the 11th day of September 2001, in the Slovenian, Italian and English languages, all texts being equally authoritative, except in the case of doubt on interpretation or application, when the English text shall prevail.

For the Government of
the Republic of Slovenia
Dr Dimitrij Rupel, (s)

For the Government
of the Italian Republic
Renato Ruggiero, (s)

ADDITIONAL PROTOCOL

to the Convention between the Government of the Italian Republic and the Government of the Republic of Slovenia for the avoidance of double taxation with respect to taxes on income and on capital and the prevention of fiscal evasion

At the signing of the Convention concluded today between the Government of the Italian Republic and the Government of the Republic of Slovenia for the avoidance of double taxation with respect to taxes on income and on capital and the prevention of fiscal evasion, the undersigned have agreed upon the following additional provisions which shall form an integral part of the said Convention.

It is understood that:

1. With reference to Article 2, paragraph 3, subparagraph b), in case Italy shall introduce in the future a tax on capital, this Convention shall apply to such tax, and double taxation shall be avoided under the provisions of paragraph 2 of the Article 24 of the Convention.

2. With reference to paragraph 3 of Article 7, the term "expenses which are incurred for the purposes of the permanent establishment" means the expenses directly connected with the activity of the permanent establishment.

3. With reference to Article 8, profits from the operation in international traffic of ships or aircraft shall include:

(a) income derived from the rental on a bare boat basis of ships or aircraft when it is an occasional source of income for an enterprise engaged in the international operation of ships or aircraft;

(b) profits derived by an enterprise engaged in international transport from the use, maintenance or rental of cointainers (including trailers and related equipment for the transport of containers) used for transport of goods or merchandise, where such rental or such use, maintenance or rental, as the case may be, is supplementary or incidental to its international operation of ships or aircraft.

4. se v zvezi s četrtrim odstavkom 10. člena, petim odstavkom 11. člena, četrtrim odstavkom 12. člena in drugim odstavkom 22. člena zadnji stavek teh odstavkov ne sme razlagati, kot da je v nasprotju z načeli iz 7. in 14. člena te konvencije;

5. se v zvezi s prvim in drugim odstavkom 19. člena za prejemke, plačane posamezniku za storitve, opravljene za Italijanski inštitut za zunanjo trgovino (I.C.E.) ali podoben slovenski inštitut, uporabljajo določbe, ki se nanašajo na državno službo.

6. se v zvezi s petim odstavkom 26. člena, kadar domača zakonodaja države pogodbenice pristojnim organom te države ne dovoljuje odstopanj od odločitev njenih sodnih organov, šteje, da so se prizadete stranke odpovedale pravnemu postopku pred domačim sodiščem, ki še ni končan, če so dopustile, da je potekel rok za pritožbo pri sodišču te države, ali če so tako pritožbo umaknile, preden je bila izdana odločitev sodišča te države;

7. določbe tretjega odstavka 29. člena pristojnima organoma držav pogodbenic ne preprečujejo, da se sporazumno dogovorita za drug način uporabe omejitev, predvidenih po tej konvenciji.

V DOKAZ NAVEDENEGA sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala ta dodatni protokol.

Sestavljeno v dveh izvornikih v Ljubljani dne 11. 9. 2001 v slovenskem, italijanskem in angleškem jeziku, pri čemer so vsa tri besedila enako verodostojna, razen v primeru dvomu glede razlage ali uporabe, ko prevlada angleško besedilo.

Za Vlado Republike Slovenije
dr. Dimitrij Rupel l. r.

Za Vlado Italijanske republike
Renato Ruggiero l. r.

For the Government of
the Republic of Slovenia
Dr Dimitrij Rupel, (s)

For the Government
of the Italian Republic
Renato Ruggiero, (s)

3. člen

Za izvajanje konvencije z dodatnim protokolom skrbi Ministrstvo za finance.

4. člen

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

Št. 432-01/02-21/1
Ljubljana, 21. marca 2002

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

4. With reference to paragraph 4 of Article 10, paragraph 5 of Article 11, paragraph 4 of Article 12 and paragraph 2 of Article 22, the last sentence contained therein shall not be construed as being contrary to the principles embodied in Articles 7 and 14 of this Convention.

5. With reference to paragraphs 1 and 2 of Article 19, remunerations paid to an individual in respect of services rendered to the Italian Foreign Trade Institution (I.C.E.) or to similar Slovenian institution, are covered by the provisions concerning government service.

6. With reference to paragraph 5 of Article 26, where the domestic law of a Contracting State does not permit the competent authorities of that State to derogate from the decisions of their judicial bodies, it will be considered that the parties concerned have waived the pending legal procedure at the domestic court if they have allowed the time provided for appeal to the court of that State to expire, or have withdrawn any such appeal before a decision of the court of that State has been delivered.

7. The provisions of paragraph 3 of Article 29 shall not prevent the competent authorities of the Contracting States from the carrying out, by mutual agreement, of other practices for the application of the limitations provided for in this Convention.

IN WITNESS THEREOF the undersigned, duly authorised thereto, have signed this Additional Protocol.

Done in duplicate at Ljubljana the 11th day of September 2001, in the Slovenian, Italian and English languages, all texts being equally authoritative, except in the case of doubt, when the English text shall prevail.

29. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Republiko Turčijo o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka s protokolom (BTUIDO)

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 MED REPUBLIKO SLOVENIJO IN REPUBLIKO TURČIJO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA V ZVEZI Z DAVKI OD DOHODKA S PROTOKOLOM (BTUIDO)**

Razgllašam Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Republiko Turčijo o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka s protokolom (BTUIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji 21. marca 2002.

Št. 001-22-33/02
Ljubljana, 29. marca 2002

Predsednik
Republike Slovenije
Milan Kučan l. r.

Z A K O N**O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN REPUBLIKO TURČIJO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA V ZVEZI Z DAVKI OD DOHODKA S PROTOKOLOM (BTUIDO)**

1. člen

Ratificira se Konvencija med Republiko Slovenijo in Republiko Turčijo o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka s protokolom, podpisana v Ljubljani dne 19. aprila 2001.

2. člen

Konvencija s protokolom se v izvirniku v slovenskem in angleškem jeziku glasi: *

**K O N V E N C I J A
MED REPUBLIKO SLOVENIJO
IN REPUBLIKO TURČIJO
O IZOGIBANJU DVOJNEGA OBDAVČEVANJA
V ZVEZI Z DAVKI OD DOHODKA**

Republika Slovenija in Republika Turčija sta se v želji, da bi sklenili konvencijo o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka, sporazumeli, kot sledi:

1. člen

OSEBE, ZA KATERE SE UPORABLJA KONVENCIJA

Ta konvencija se uporablja za osebe, ki so rezidenti ene ali obeh držav pogodbenic.

2. člen

DAVKI, ZA KATERE SE UPORABLJA KONVENCIJA

1) Ta konvencija se uporablja za davke od dohodka, ki se uvedejo v imenu pogodbenice ali njenih političnih enot ali lokalnih oblasti, ne glede na način njihove uvedbe.

2) Za davke od dohodka se štejejo vsi davki, uvedeni na celoten dohodek ali na sestavine dohodka, vključno z davki od dobička iz odtujitve premičnin ali nepremičnin ter davki na skupne zneske mezd ali plač, ki jih plačujejo podjetja.

3) Obstoječi davki, za katere se uporablja konvencija, so zlasti:

**C O N V E N T I O N
BETWEEN THE REPUBLIC OF SLOVENIA
AND THE REPUBLIC OF TURKEY
FOR THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME**

The Republic of Slovenia and the Republic of Turkey, desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income, Have agreed as follows:

Article 1

PERSONAL SCOPE

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

TAXES COVERED

(1) This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

(2) There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises.

(3) The existing taxes to which the Convention shall apply are in particular:

* Besedilo konvencije v turškem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve.

- a) v Sloveniji:
- i) davek od dobička pravnih oseb;
 - ii) davek od dohodka posameznikov, vključno z mezdami in plačami, dohodkom iz kmetijskih dejavnosti, dohodkom iz poslovanja, kapitalskimi dobički in dohodkom iz nepremičnin in premičnin (dohodnina)

(v nadaljevanju "slovenski davek");

- b) v Turčiji:
- i) davek od dohodka (Gelir Vergisi);
 - ii) davek od dobička pravnih oseb (Kurumlar Vergisi);

iii) dodatna dajatev na davek od dohodka in na davek od dobička pravnih oseb (Gelir Vergisi ve Kurumlar Vergisi üzerinden alınan fon payı)

(v nadaljevanju "turški davek").

4) Ta konvencija se uporablja tudi za kakršne koli enake ali vsebinsko podobne davke, ki se uvedejo po datumu podpisa konvencije dodatno k obstoječim davkom ali namesto njih. Pristojna organa držav pogodbenic drug drugega uradno obvestita o vseh bistvenih spremembah njihovih davčnih zakonodaj.

3. člen

SPLOŠNA OPREDELITEV IZRAZOV

1) Za namene te konvencije, razen če sobesedilo zahteva drugače:

a) i) izraz "Slovenija" pomeni Republiko Slovenijo in ozemlje pod njeno suverenostjo, vključno z zračnim prostorom in morskimi območji, nad katerimi Republika Slovenija izvaja svojo suverenost ali jurisdikcijo v skladu z notranjim in mednarodnim pravom;

ii) izraz "Turčija" pomeni ozemlje Turčije, vključno s teritorialnim morjem in zračnim prostorom nad njim, kakor tudi morska območja, nad katerimi ima v skladu z mednarodnim pravom jurisdikcijo ali suverene pravice za namen iskanja, izkoriščanja in ohranjanja naravnih virov;

b) izraza "država pogodbenica" in "druga država pogodbenica" pomenita, kot zahteva sobesedilo, Turčijo ali Slovenijo;

c) izraz "oseba" vključuje posameznika, družbo in katero koli drugo telo, ki združuje več oseb;

d) izraz "družba" pomeni katero koli korporacijo ali kateri koli subjekt, ki se za davčne namene obravnava kot korporacija;

e) družba ima "kraj vpisa v register":

i) v Turčiji, če je njen zakoniti sedež registriran v Turčiji po turškem trgovinskem zakoniku, ali

ii) v Sloveniji, če je organizirana, ustanovljena oziroma registrirana po slovenski zakonodaji;

f) izraza "podjetje države pogodbenice" in "podjetje druge države pogodbenice" pomenita podjetje, ki ga upravlja rezident države pogodbenice, in podjetje, ki ga upravlja rezident druge države pogodbenice;

g) izraz "mednarodni promet" pomeni kakršen koli prevoz z ladjo, letalom ali cestnim vozilom, ki ga opravlja podjetje države pogodbenice, razen če ladja, letalo ali cestno vozilo opravlja prevoze samo med kraji v drugi državi pogodbenici;

h) izraz "pristojni organ" pomeni:

i) v Sloveniji Ministrstvo za finance Republike Slovenije ali pooblaščenega predstavnika tega ministrstva;

ii) v Turčiji ministra za finance ali njegovega pooblaščenega predstavnika;

i) izraz "državljan" pomeni:

i) katerega koli posameznika, ki ima državljanstvo države pogodbenice;

a) in Slovenia:

(i) the tax on profits of legal persons (davek od dobička pravnih oseb);

(ii) the tax on income of individuals, including wages and salaries, income from agricultural activities, income from business, capital gains and income from immovable and movable property (dohodnina);

(hereinafter referred to as "Slovenian tax");

b) in Turkey:

(i) the income tax (Gelir Vergisi);

(ii) the corporation tax (Kurumlar Vergisi);

(iii) the levy imposed on the income tax and corporation tax (Gelir Vergisi ve Kurumlar Vergisi üzerinden alınan fon payı);

(hereinafter referred to as "Turkish tax").

(4) The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

Article 3

GENERAL DEFINITIONS

(1) For the purposes of this Convention, unless the context otherwise requires:

a) (i) the term "Slovenia" means the Republic of Slovenia and includes the territory under its sovereignty, including air space and maritime areas, over which the Republic of Slovenia exercises its sovereignty or jurisdiction, in accordance with international law;

(ii) the term "Turkey" means the Turkish territory including territorial sea and air space above it, as well as the maritime areas over which it has jurisdiction or sovereign rights for the purpose of exploration, exploitation and conservation of natural resources, pursuant to international law;

b) the terms "a Contracting State" and "the other Contracting State" mean Turkey or Slovenia as the context requires;

c) the term "person" includes an individual, a company and any other body of persons;

d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

e) a company has its "place of incorporation":

(i) in Turkey, if its legal head office is registered in Turkey under the Turkish Code of Commerce; or

(ii) in Slovenia, if it is organized, created or incorporated under the laws of the Slovenia;

f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

g) the term "international traffic" means any transport by a ship, aircraft or road vehicle operated by an enterprise of a Contracting State, except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting State;

h) the term "competent authority" means:

(i) in Slovenia: the Ministry of Finance of the Republic of Slovenia or its authorized representative;

(ii) in Turkey: the Minister of Finance or his authorized representative;

i) the term "national" means:

(i) any individual possessing the nationality of a Contracting State;

ii) katero koli pravno osebo, osebno družbo ali združenje, katerih status izhaja iz veljavne zakonodaje v državi pogodbenici.

2) Kadar koli država pogodbenica uporabi konvencijo, ima kateri koli izraz, ki v njej ni opredeljen, razen če sobesedilo zahteva drugače, pomen, ki ga ima takrat po pravu te države za namene davkov, za katere se konvencija uporablja, pri čemer kateri koli pomen po veljavni davčni zakonodaji te države prevlada nad pomenom izraza po drugi zakonodaji te države.

4. člen REZIDENT

1) Za namene te konvencije izraz "rezident države pogodbenice" pomeni katero koli osebo, ki je po zakonodaji te države dolžna plačevati davke zaradi svojega stalnega prebivališča, prebivališča, kraja vpisa v register, sedeža uprave ali katerega koli drugega podobnega merila, in tudi vključuje to državo in katero koli njeno politično enoto ali lokalno oblast. Ta izraz pa ne vključuje katere koli osebe, ki je dolžna plačevati davke v tej državi samo v zvezi z dohodki iz virov v tej državi.

2) Kadar je zaradi določb prvega odstavka posameznik rezident obeh držav pogodbenic, se njegov status določi na naslednji način:

a) šteje se za rezidenta države, v kateri ima na razpolago stalno prebivališče; če ima na razpolago stalno prebivališče v obeh državah, se šteje za rezidenta države, s katero ima tesnejše osebne in ekonomske odnose (središče življenjskih interesov);

b) če ni mogoče opredeliti države, v kateri ima središče življenjskih interesov, ali če nima v nobeni od držav na razpolago stalnega prebivališča, se šteje samo za rezidenta države, v kateri ima običajno bivališče;

c) če ima običajno bivališče v obeh državah ali v nobeni od njiju, se šteje samo za rezidenta države, katere državljan je;

d) če je državljan obeh držav ali nobene od njiju, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom.

3) Kadar je zaradi določb prvega odstavka oseba, ki ni posameznik, rezident obeh držav pogodbenic, se šteje, da je samo rezident države, v kateri je kraj vpisa v register.

5. člen STALNA POSLOVNA ENOTA

1) Za namene te konvencije izraz "stalna poslovna enota" pomeni stalno mesto poslovanja, prek katerega v celoti ali delno potekajo posli podjetja.

2) Izraz "stalna poslovna enota" še posebej vključuje:

a) sedež uprave,
b) podružnico,
c) pisarno,
d) tovarno,
e) delavnico in
f) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov.

3) Gradbišče, projekt gradnje ali montaže je stalna poslovna enota samo, če tako gradbišče ali projekt traja več kot dvanajst mesecev.

4) Ne glede na prejšnje določbe tega člena se šteje, da izraz "stalna poslovna enota" ne vključuje:

a) uporabe prostorov samo za namen skladiščenja, razstavljanja ali dostave dobrin ali blaga, ki pripada podjetju;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

(2) As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4 RESIDENT

(1) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

(2) Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(3) Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which it has its place of incorporation.

Article 5 PERMANENT ESTABLISHMENT

(1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

(2) The term "permanent establishment" includes especially:

a) a place of management;
b) a branch;
c) an office;
d) a factory;
e) a workshop; and
f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

(3) A building site, construction or installation project constitutes a permanent establishment only if such site or project continues for a period of more than twelve months.

(4) Notwithstanding the preceding provisions of this Article the term "permanent establishment" shall be deemed not to include:

a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen skladiščenja, razstavljanja ali dostave;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen predelave s strani drugega podjetja;

d) vzdrževanja stalnega mesta poslovanja samo za namen nakupa dobrin ali blaga za podjetje ali zbiranja informacij za podjetje;

e) vzdrževanja stalnega mesta poslovanja samo za namen opravljanja kakršne koli druge dejavnosti pripravljalne ali pomožne narave za podjetje;

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do e), pod pogojem, da je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalne ali pomožne narave.

5) Ne glede na določbe prvega in drugega odstavka, kadar oseba – ki ni zastopnik z neodvisnim statusom, za katerega se uporablja šesti odstavek – deluje v imenu podjetja ter ima in običajno uporablja v državi pogodbenici pooblastilo za sklepanje pogodb v imenu podjetja, se za to podjetje šteje, da ima stalno poslovno enoto v tej državi v zvezi s katerimi koli dejavnostmi, ki jih ta oseba prevzame za podjetje, razen če so dejavnosti take osebe omejene na tiste iz četrtega odstavka, zaradi katerih se to stalno mesto poslovanja po določbah tega odstavka ne bi štelo za stalno poslovno enoto, če bi se opravljale prek stalnega mesta poslovanja.

6) Ne šteje se, da ima podjetje države pogodbenice stalno poslovno enoto v drugi državi pogodbenici samo zato, ker opravlja posle v tej državi prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, pod pogojem, da te osebe delujejo v okviru svojega rednega poslovanja.

7) Dejstvo, da družba, ki je rezident države pogodbenice, nadzoruje družbo, ki je rezident druge države pogodbenice ali opravlja posle v tej drugi državi (prek stalne poslovne enote ali drugače) ali je pod nadzorom take družbe, samo po sebi še ne pomeni, da je ena od družb stalna poslovna enota druge.

6. člen

DOHODEK IZ NEPREMIČNIN

1) Dohodek rezidenta države pogodbenice, ki izhaja iz nepremičnin (vključno z dohodkom iz kmetijstva ali gozdarstva), ki so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2) Izraz "nepremičnine" ima pomen, ki ga ima po pravu države pogodbenice, v kateri je zadevna nepremičnina. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu (vključno z ribogojstvom) in gozdarstvu, pravice, za katere veljajo določbe splošnega prava v zvezi z zemljiško lastnino, užitek na nepremičninah in pravice do spremenljivih ali stalnih plačil kot odškodnino za izkoriščanje ali pravico do izkoriščanja nahajališč rude, virov ter drugega naravnega bogastva; ladje, čolni in letala se ne štejejo za nepremičnine.

3) Določbe prvega odstavka se uporabljajo za dohodek, ki se ustvari z neposredno uporabo, dajanjem v najem ali katero koli drugo obliko uporabe nepremičnine.

4) Določbe prvega in tretjega odstavka se uporabljajo tudi za dohodek iz nepremičnin podjetja in za dohodek iz nepremičnin, ki se uporabljajo za opravljanje samostojnih osebnih storitev.

b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

(5) Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

(6) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

(7) The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

(1) Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

(2) The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture (including the breeding and cultivation of fish) and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

(4) The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

7. člen
POSLOVNI DOBIČEK

1) Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje posluje v drugi državi pogodbenici prek stalne poslovne enote v njej. Če podjetje posluje, kot je prej omenjeno, se lahko dobiček podjetja obdavči v drugi državi, vendar samo toliko dobička, kot se pripiše tej stalni poslovni enoti.

2) Ob upoštevanju določb tretjega odstavka, kadar podjetje države pogodbenice posluje v drugi državi pogodbenici prek stalne poslovne enote v njej, se v vsaki državi pogodbenici tej stalni poslovni enoti pripiše dobiček, za katerega bi se lahko pričakovalo, da bi ga imela, če bi bila različno in ločeno podjetje, ki opravlja enake ali podobne dejavnosti pod istimi ali podobnimi pogoji ter povsem neodvisno posluje s podjetjem, katerega stalna poslovna enota je.

3) Pri določanju dobička stalne poslovne enote je dovoljeno odšteti stroške, ki nastanejo za namene stalne poslovne enote, vključno s poslovnimi in splošnimi upravnimi stroški, ki nastanejo bodisi v državi, v kateri je stalna poslovna enota, ali drugje.

4) Če se v državi pogodbenici dobiček, ki se pripiše stalni poslovni enoti, običajno določi na podlagi porazdelitve vsega dobička podjetja na njegove dele, nič v drugem odstavku tej državi pogodbenici ne preprečuje določiti obdavčljivega dobička z običajno porazdelitvijo; sprejeta metoda porazdelitve pa mora biti taka, da je rezultat v skladu z načeli tega člena.

5) Stalni poslovni enoti se ne pripiše dobiček samo zato, ker nakupuje dobrine ali blago za podjetje.

6) Za namene prejšnjih odstavkov se dobiček, ki se pripiše stalni poslovni enoti, vsako leto določi po isti metodi, razen če je upravičen in zadosten razlog za nasprotno.

7) Kadar dobiček vključuje dohodkovne postavke, ki so posebej obravnavane v drugih členih te konvencije, določbe tega člena ne vplivajo na določbe tistih členov.

8. člen
POMORSKI, LETALSKI IN CESTNI PREVOZ

1) Dobiček, ki ga podjetje države pogodbenice doseže iz opravljanja ladijskih, letalskih ali cestnih prevozov v mednarodnem prometu, se obdavči samo v tej državi.

2) Za namene tega člena dobiček, ki ga podjetje države pogodbenice doseže iz opravljanja ladijskih ali letalskih prevozov v mednarodnem prometu, med drugim vključuje dobiček iz uporabe ali najema zabojnikov, če je tak dobiček v zvezi z dobičkom, za katerega se uporabljajo določbe prvega odstavka.

3) Določbe prvega odstavka tega člena se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju (pool), mešanem podjetju ali mednarodni prevoznici.

9. člen
POVEZANA PODJETJA

1) Kadar:

a) je podjetje države pogodbenice neposredno ali posredno udeleženo pri upravljanju, nadzoru ali v kapitalu podjetja druge države pogodbenice ali

b) so iste osebe neposredno ali posredno udeležene pri upravljanju, nadzoru ali v kapitalu podjetja države pogodbenice in podjetja druge države pogodbenice

Article 7
BUSINESS PROFITS

(1) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

(2) Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

(3) In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

(4) Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

(5) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(6) For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

(7) Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8
SHIPPING, AIR AND ROAD TRANSPORT

(1) Profits derived by an enterprise of a Contracting State from the operation of ships, aircraft or road vehicles in international traffic shall be taxable only in that State.

(2) For the purposes of this Article, profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall include inter alia profits derived from the use or rental of containers, if such profits are incidental to the profits to which the provisions of paragraph 1 apply.

(3) The provisions of paragraph 1 of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9
ASSOCIATED ENTERPRISES

(1) Where

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

in v obeh primerih obstajajo ali se uvedejo med podjetjema v njunih komercialnih ali finančnih odnosih pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se kakršen koli dobiček, ki bi prirastel enemu od podjetij, če takih pogojev ne bi bilo, vendar prav zaradi takih pogojev ni prirastel, lahko vključi v dobiček tega podjetja in ustrezno obdavči.

2) Kadar država pogodbenica v dobiček podjetja te države vključuje – in ustrezno obdavči – dobiček, za katerega je bilo že obdavčeno podjetje druge države pogodbenice v tej drugi državi in se ta druga država strinja, da je tako vključen dobiček dobiček, ki bi prirastel podjetju prve omenjene države, če bi bili pogoji, ki obstajajo med podjetjema, taki, kot bi obstajali med neodvisnimi podjetji, ta druga država ustrezno prilagodi znesek davka, ki se v tej državi zaračuna od tega dobička, če meni, da je prilagoditev upravičena. Pri določanju take prilagoditve je treba upoštevati druge določbe te konvencije, pristojna organa držav pogodbenic pa se po potrebi med seboj posvetujeta.

10. člen DIVIDENDE

1) Dividende, ki jih družba, ki je rezident države pogodbenice, plača rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2) Take dividende pa se lahko obdavčijo tudi v državi pogodbenici, katere rezident je družba, ki dividende plačuje, in v skladu z zakonodajo te države, če pa je upravičeni lastnik dividend rezident druge države pogodbenice, tako obračunani davek ne presega 10 odstotkov bruto zneska dividend.

Ta odstavek ne vpliva na obdavčenje družbe v zvezi z dobičkom, iz katerega se plačajo dividende.

3) Izraz "dividende", kot je uporabljen v tem členu, pomeni dohodek iz delnic, "jouissance" delnic ali pravic, ustanoviteljskih delnic ali drugih pravic do udeležbe v dobičku, ki niso terjatve, kot tudi dohodek iz drugih pravic v družbi, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države, katere rezident je družba, ki dividende deli, in dohodek iz investicijskega sklada in investicijskega trusta.

4) Dobitek družbe države pogodbenice, ki posluje v drugi državi pogodbenici prek stalne poslovne enote v njej, se po obdavčenju v skladu s 7. členom lahko za preostali znesek obdavči v državi pogodbenici, v kateri je stalna poslovna enota. Stopnja takega davka pa ne sme biti višja, kot je stopnja iz drugega odstavka.

5) Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik dividend, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, katere rezident je družba, ki dividende plačuje, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

6) Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izhaja iz druge države pogodbenice, ta druga država ob upoštevanju določb četrtega odstavka ne sme uvesti nobenega davka na dividende, ki jih plača družba, razen če se te dividende plačajo rezidentu te druge

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

(2) Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are by the first-mentioned state claimed to be profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits, where that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10 DIVIDENDS

(1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

(2) However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

(3) The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident, and income derived from an investment fund and investment trust.

(4) Profits of a company of a Contracting State carrying on business in the other Contracting State through a permanent establishment situated therein may, after having been taxed under Article 7, be taxed on the remaining amount in the Contracting State in which the permanent establishment is situated. However, such tax may not be imposed at a rate in excess of the rate specified in paragraph 2.

(5) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(6) Subject to the provisions of paragraph 4, where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a

države ali če je delež, v zvezi s katerim se take dividende plačajo, dejansko povezan s stalno poslovno enoto ali stalno bazo v tej drugi državi, niti ne sme uvesti davka od nerazdeljenega dobička na nerazdeljeni dobiček družbe, tudi če so plačane dividende ali nerazdeljeni dobiček v celoti ali delno sestavljeni iz dobička ali dohodka, ki nastane v taki drugi državi.

11. člen OBRESTI

1) Obresti, ki nastanejo v državi pogodbenici in se izplačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2) Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik obresti rezident druge države pogodbenice, tako zaračunani davek ne presega 10 odstotkov bruto zneska obresti.

3) Ne glede na določbe drugega odstavka so obresti, ki nastanejo v državi pogodbenici in katerih upravičeni lastnik je vlada druge države pogodbenice, vključno z njenimi političnimi enotami ali lokalnimi oblastmi, ali centralna banka, oproščene davka v prvi omenjeni državi.

4) Izraz "obresti", kot je uporabljen v tem členu, pomeni dohodek iz vseh vrst terjatev ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali imajo pravico do udeležbe v dolžnikovem dobičku, in še posebej dohodek iz državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami, ki pripadajo takim vrednostnim papirjem, obveznicam ali zadolžnicam.

5) Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

6) Šteje se, da obresti nastanejo v državi pogodbenici, kadar je plačnik ta država, politična enota, lokalna oblast ali rezident te države. Kadar pa ima oseba, ki plačuje obresti, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala zadolžitev, za katero se plačajo obresti, ter take obresti krije taka stalna poslovna enota ali stalna baza, se šteje, da take obresti nastanejo v državi, v kateri je stalna poslovna enota ali stalna baza.

7) Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek obresti glede na terjatev, za katero se plačajo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

12. člen LICENČNINE IN AVTORSKI HONORARJI

1) Licenčnine in avtorski honorarji, ki nastanejo v državi pogodbenici in se plačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 INTEREST

(1) Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

(2) However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

(3) Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and beneficially owned by a Government of the other Contracting State including political subdivision or local authorities or by a Central Bank thereof, shall be exempt from tax in the first-mentioned State.

(4) The term "interest" as used in this Article means income from debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.

(5) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(6) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

(7) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12 ROYALTIES

(1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2) Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako zaračunani davek ne presega 10 odstotkov bruto zneska licenčnin in avtorskih honorarjev.

3) Izraz "licenčnine in avtorski honorarji", kot je uporabljen v tem členu, pomeni plačila vsake vrste, prejeta kot povračilo za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno, umetniško ali znanstveno delo, vključno s kinematografskimi filmi ter radijskimi in televizijskimi posnetki, kakršnega koli patenta, blagovne znamke, vzorca ali modela, načrta, tajne formule ali postopka ali za informacije o industrijskih, komercialnih ali znanstvenih izkušnjah.

4) Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčnin in avtorskih honorarjev, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri licenčnine in avtorski honorarji nastanejo, prek stalne poslovne enote v njej ali v tej drugi državi opravlja samostojne osebne storitve iz stalne baze v njej ter je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

5) Šteje se, da so licenčnine in avtorski honorarji nastali v državi pogodbenici, kadar je plačnik ta država, politična enota, lokalna oblast ali rezident te države. Kadar pa ima oseba, ki plačuje licenčnine in avtorske honorarje, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je dejansko povezana pravica ali premoženje, za katero se plačajo licenčnine in avtorski honorarji, ter take licenčnine in avtorske honorarje krije taka stalna poslovna enota ali stalna baza, se šteje, da so take licenčnine in avtorski honorarji nastali v državi, v kateri je stalna poslovna enota ali stalna baza.

6) Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek licenčnin in avtorskih honorarjev glede na uporabo, pravico ali informacijo, za katero se plačujejo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

13. člen KAPITALSKI DOBIČEK

1) Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo nepremičnin, ki so omenjene v 6. členu in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2) Dobiček iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnin, ki se nanašajo na stalno bazo, ki jo ima rezident države pogodbenice na voljo v drugi državi pogodbenici za namen opravljanja samostojnih osebnih storitev, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem) ali take stalne baze, se lahko obdavči v tej drugi državi.

3) Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo ladij, letal ali cestnih vozil, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premičnin, ki se nanašajo na opravljanje prevozov s takimi ladjami, letali ali cestnimi vozili, se obdavči samo v tej državi.

(2) However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

(3) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and recordings for radio and television, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

(4) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(5) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the right or property giving rise to the royalties is effectively connected, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

(6) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13 CAPITAL GAINS

(1) Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

(2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

(3) Gains derived by a resident of a Contracting State from the alienation of ships, aircraft or road vehicles operated in international traffic, or movable property pertaining to the operation of such ships, aircraft or road vehicles shall be taxable only in that State.

4) Dobiček iz odtujitve kakršnega koli premoženja, ki ni premoženje, navedeno v prvem, drugem in tretjem odstavku, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

5) Določbe četrtega odstavka ne vplivajo na pravice ene ali druge države pogodbenice, da v skladu s svojo zakonodajo odmeri davek od dobička, ki ga doseže rezident druge države iz odtujitve delnic ali obveznic, ki jih izda rezident prve omenjene države, če čas med pridobitvijo in odtujitvijo ni daljši od enega leta.

14. člen

SAMOSTOJNE OSEBNE STORITVE

1) Dohodek, ki ga rezident države pogodbenice dobi iz poklicnih storitev ali drugih samostojnih dejavnosti, se obdavči samo v tej državi, razen če ima stalno bazo, ki mu je redno na voljo v drugi državi pogodbenici za namen opravljanja njegovih dejavnosti. Če ima tako stalno bazo, se dohodek lahko obdavči v drugi državi, a samo toliko dohodka, kolikor se pripiše tej stalni bazi.

2) Izraz "poklicne storitve" vključuje še posebej samostojne znanstvene, literarne, umetniške, izobraževalne ali pedagoške dejavnosti kot tudi samostojne dejavnosti zdravnikov, odvetnikov, inženirjev, arhitektov, zobozdravnikov in računovodij.

15. člen

ODVISNE OSEBNE STORITVE

1) V skladu z določbami 16., 18., 19. in 20. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako pridobljeni prejemki obdavčijo v tej drugi državi.

2) Ne glede na določbe prvega odstavka se prejemek, ki ga dobi rezident države pogodbenice iz zaposlitve, ki se izvaja v drugi državi pogodbenici, obdavči samo v prvi omenjeni državi, če:

- a) je prejemnik navzoč v drugi državi v obdobju ali obdobjih, ki ne presegajo skupno 183 dni v katerem koli obdobju dvanajstih mesecev, ki se začne ali konča v zadevnem koledarskem letu, in
- b) prejemek plača delodajalec, ki ni rezident druge države, oziroma se plača v njegovem imenu in
- c) prejemka ne krije stalna poslovna enota ali stalna baza, ki jo ima delodajalec v drugi državi.

3) Ne glede na prejšnje določbe tega člena se prejemek, ki izhaja iz zaposlitve na ladji, letalu ali cestnem vozilu, s katerim podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, lahko obdavči v tej državi.

16. člen

PLAČILA DIREKTORJEM

Plačila direktorjem in druga podobna plačila, ki jih dobi rezident države pogodbenice kot član upravnega odbora družbe, ki je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

17. člen

UMETNIKI IN ŠPORTNIKI

1) Ne glede na določbe 14. in 15. člena se dohodek, ki ga dobi rezident države pogodbenice kot nastopajoči izvajalec, kot je gledališki, filmski, radijski ali televizijski umetnik ali glasbenik, ali kot športnik iz takšnih osebnih dejavnosti, ki jih izvaja v drugi državi pogodbenici, lahko obdavči v tej drugi državi.

(4) Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

(5) The provisions of paragraph 4 shall not affect the right of one of the Contracting States to levy according to its own law a tax on gains derived by a resident of the other State from the alienation of shares or bonds issued by a resident of the first-mentioned State if the period between acquisition and alienation does not exceed one year.

Article 14

INDEPENDENT PERSONAL SERVICES

(1) Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

(2) The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

(1) Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the calendar year concerned, and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article remuneration derived in respect of an employment exercised aboard a ship, aircraft or road vehicle operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

Article 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

ARTISTES AND SPORTSMEN

(1) Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2) Kadar dohodek iz osebnih dejavnosti, ki jih izvaja nastopajoči izvajalec ali športnik kot tak, ne priraste same-mu nastopajočemu izvajalcu ali športniku, temveč drugi osebi, se ta dohodek kljub določbam 7., 14. in 15. člena lahko obdavči v državi pogodbenici, v kateri se izvajajo dejavnosti nastopajočega izvajalca ali športnika.

3) Dohodek, ki ga doseže nastopajoči izvajalec ali športnik iz dejavnosti v državi pogodbenici, je oproščen davka v državi, kadar se obisk v tej državi v celoti ali pretežno financira z javnimi sredstvi druge države pogodbenice ali njene politične enote ali lokalne oblasti.

18. člen POKOJNINE

V skladu z določbami drugega odstavka 19. člena se pokojnine in drugi podobni prejemki, ki se plačujejo rezidentu države pogodbenice za preteklo zaposlitev, obdavčijo samo v tej državi. Ta določba se uporablja tudi za dosmrtno rento, ki se plačuje rezidentu države pogodbenice.

19. člen DRŽAVNA SLUŽBA

1) a) Plače, mezde in drugi podobni prejemki razen pokojnin, ki jih plačuje država pogodbenica ali njena politična enota ali lokalna oblast posamezniku za storitve, ki jih opravi za to državo ali enoto ali oblast, se obdavčijo samo v tej državi.

b) Take plače, mezde in drugi podobni prejemki pa se obdavčijo samo v drugi državi pogodbenici, če se storitve opravljajo v tej državi in je posameznik rezident te države, ki:

- i) je državljan te države ali
- ii) ni postal rezident te države samo za namen opravljanja storitev.

2) a) Vsaka pokojnina, plačana iz skladov države pogodbenice ali njene politične enote ali lokalne oblasti posamezniku za storitve, opravljene za to državo ali enoto ali oblast, se obdavči samo v tej državi.

b) Taka pokojnina pa se obdavči samo v drugi državi pogodbenici, če je posameznik rezident in državljan te države.

3) Določbe 15., 16., 17. in 18. člena se uporabljajo za plače, mezde in druge podobne prejemke ter za pokojnine za storitve, opravljene v zvezi s posli države pogodbenice ali njene politične enote ali lokalne oblasti.

20. člen PROFESORJI IN RAZISKOVALCI

1) Prejemki, ki jih prejme profesor ali raziskovalec, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in je navzoč v prvi omenjeni državi predvsem zaradi poučevanja, predavanja ali raziskovanja na univerzi, višji oziroma visoki šoli, šoli ali kateri koli drugi priznani izobraževalni ali raziskovalni ustanovi v obdobju ali obdobjih, ki niso daljša od dveh let, se v tej državi ne obdavčijo za dohodek iz osebnih storitev za tako poučevanje, predavanje ali raziskovanje pod pogojem, da taka plačila nastanejo iz virov zunaj te države.

2) Ta člen se ne uporablja za prejemke, ki jih profesor ali raziskovalec prejme za raziskave, če se raziskave izvajajo predvsem v zasebno korist določene osebe ali oseb.

(2) Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

(3) Income derived by an entertainer or a sportsman from activities exercised in a Contracting State shall be exempt from tax in the State, if the visit to that State is supported wholly or mainly by public funds of the other Contracting State or a political subdivision or a local authority thereof.

Article 18 PENSIONS

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State. This provision shall also apply to life annuities paid to a resident of a Contracting State.

Article 19 GOVERNMENT SERVICE

(1) a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

(2) a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

(3) The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20 PROFESSORS AND RESEARCHERS

(1) Remuneration received by a professor or by a researcher who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State for the primary purpose of teaching, lecturing or engaging in a research at a university, college, school, or any other recognized educational or research institution for a period or periods not exceeding two years shall be exempt from tax in that State on his remuneration from personal services for such teaching, lecturing or research provided that such payments arise from sources outside that State.

(2) This Article shall not apply to remuneration which a professor or a researcher receives for conduction of research if the research is undertaken primarily for the private benefit of a specific person or persons.

21. člen
ŠTUDENTI

1) Plačila, ki jih študent ali pripravnik, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in je v prvi omenjeni državi navzoč samo za namen svojega izobraževanja ali usposabljanja, prejme za svoje vzdrževanje, izobraževanje ali usposabljanje, se ne obdavčijo v tej državi pod pogojem, da taka plačila nastanejo iz virov zunaj te države.

2) Glede podpor, štipendij in prejemkov iz zaposlitve, ki jih ne opredeljuje prvi odstavek tega člena, je študent ali pripravnik med takim izobraževanjem ali usposabljanjem upravičen do enakih olajšav, oprostitev ali znižanj za davke, kot jih imajo rezidenti države pogodbenice, v kateri je na obisku.

22. člen
DRUGI DOHODKI

1) Deli dohodka rezidenta države pogodbenice, ki nastanejo kjer koli in niso obravnavani v predhodnih členih te konvencije, se obdavčijo samo v tej državi.

2) Določbe prvega odstavka se ne uporabljajo za dohodek, ki ni dohodek iz nepremičnin, kot so opredeljene v drugem odstavku 6. člena, če prejemnik takega dohodka, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej in je pravica ali premoženje, za katero se plača dohodek, dejansko povezano s to stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

23. člen
ODPRAVA DVOJNEGA OBDAVČEVANJA

1) Kadar rezident države pogodbenice dobi dohodek, ki se v skladu z določbami te konvencije lahko obdavči v drugi državi pogodbenici, prva omenjena država dovoli kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v tej drugi državi.

Tak odbitek pa ne sme presehati tistega dela davka od dohodka, ki je bil izračunan pred odbitkom, pripisanim dohodku, ki se lahko obdavči v tej drugi državi.

2) Kadar je v skladu s katero koli določbo te konvencije dohodek, ki ga dobi rezident države pogodbenice, oproščen davka v tej državi, lahko ta država pri izračunu davka od preostalega dohodka takega rezidenta vseeno upošteva oproščen dohodek.

24. člen
ENAKO OBRAVNAVANJE

1) Državljeni države pogodbenice ne smejo biti v drugi državi pogodbenici zavezani kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te druge države v enakih okoliščinah, še zlasti glede rezidentstva.

2) Osebe brez državljanstva, ki so rezidenti države pogodbenice, v nobeni državi pogodbenici ne smejo biti zavezane kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te države v enakih okoliščinah.

Article 21
STUDENTS

(1) Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

(2) In respect of grants, scholarships and remuneration from employment not covered by paragraph 1 of this Article, a student or business apprentice shall be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes as are available to the residents of the Contracting State he is visiting.

Article 22
OTHER INCOME

(1) Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

(2) The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 23
ELIMINATION OF DOUBLE TAXATION

(1) Where a resident of a Contracting State derives income which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident, an amount equal to the tax on the income paid in that other State.

Such deduction shall not, however, exceed that part of the tax on the income, as computed before the deduction is given, which is attributable to the income which may be taxed in that other State.

(2) Where in accordance with any provision of the Convention income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

Article 24
NON-DISCRIMINATION

(1) Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.

(2) Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances are or may be subjected.

3) Ob upoštevanju določb četrtega odstavka 10. člena obdavčevanje stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ne sme biti manj ugodno v tej drugi državi, kot je obdavčevanje podjetij te druge države, ki opravljajo enake dejavnosti.

4) Ta določba se ne razlaga, kot da zavezuje državo pogodbenico, da priznava rezidentom druge države pogodbenice kakršne koli osebne olajšave, druge olajšave in znižanja za davčne namene zaradi osebnega stanja ali družinskih obveznosti, ki jih priznava svojim rezidentom.

5) Razen kadar se uporabljajo določbe prvega odstavka 9. člena, sedmega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih plača podjetje države pogodbenice rezidentu druge države pogodbenice, pri določanju obdavčljivega dobička takega podjetja odbijejo pod istimi pogoji, kot če bi bili plačani rezidentu prve omenjene države.

6) Podjetja države pogodbenice, katerih kapital je v celoti ali delno, neposredno ali posredno v lasti ali pod nadzorom enega ali več rezidentov druge države pogodbenice, ne smejo biti v prvi omenjeni državi zavezana kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za druga podobna podjetja prve omenjene države.

7) Določbe tega člena se uporabljajo samo za davke iz te konvencije.

25. člen

POSTOPEK SKUPNEGA DOGOVORA

1) Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanjo za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ne glede na sredstva, ki ji jih omogoča domača zakonodaja teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njen primer nanaša na prvi odstavek 24. člena, tiste države pogodbenice, katere državljan je. Zadeva mora biti predložena v treh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčevanje, ki ni v skladu z določbami konvencije.

2) Pristojni organ si, če se mu zdi pritožba upravičena in če sam ne more priti do zadovoljive rešitve, prizadeva rešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice z namenom izogniti se obdavčevanju, ki ni v skladu s konvencijo. Vsak dosežen dogovor se izvaja ne glede na roke v domači zakonodaji držav pogodbenic.

3) Pristojna organa držav pogodbenic si prizadevata s skupnim dogovorom razrešiti kakršne koli težave ali dvome, ki nastanejo pri razlagi ali uporabi konvencije. Prav tako se lahko med seboj posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih konvencija ne predvideva.

4) Pristojna organa držav pogodbenic lahko neposredno komunicirata med seboj, vključno prek skupne komisije, ki jo sestavljata sama ali njuni predstavniki, da bi dosegla dogovor v smislu prejšnjih odstavkov.

(3) Subject to the provisions of paragraph 4 of Article 10 the taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

(4) This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

(5) Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

(6) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

(7) The provisions of this Article shall apply only to taxes covered by the Convention.

Article 25

MUTUAL AGREEMENT PROCEDURE

(1) Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

(4) The competent authorities of the Contracting States may communicate with each other directly including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

26. člen

IZMENJAVA INFORMACIJ

1) Pristojna organa držav pogodbenic si izmenjavata take informacije, ki so potrebne za izvajanje določb te konvencije ali notranje zakonodaje držav pogodbenic glede davkov, za katere se uporablja ta konvencija, kolikor obdavčevanje na njihovi podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po notranji zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženi pri odmeri ali pobiranju, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov, za katere se uporablja konvencija. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo na sodnih obravnavah ali pri sodnih odločitvah.

2) V nobenem primeru se določbe prvega odstavka ne razlagajo, kot da nalagajo državi pogodbenici obveznost:

a) da izvaja upravne ukrepe, ki niso v skladu z zakonodajo in upravno prakso te ali druge države pogodbenice,

b) da priskrbi informacije, ki jih ni mogoče dobiti po zakonski ali običajni upravni poti te ali druge države pogodbenice,

c) da priskrbi informacije, ki bi razkrile kakršno koli trgovinsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinske postopke, ali informacije, katerih razkritje bi bilo v nasprotju z javnim redom.

27. člen

ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN KONZULATOV

Nič v tej konvenciji ne vpliva na davčne ugodnosti članov diplomatskih predstavništva ali konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

28. člen

ZAČETEK VELJAVNOSTI

1) Vsaka država pogodbenica drugo državo pogodbenico obvesti, da so končani postopki, ki so po njeni zakonodaji potrebni za začetek veljavnosti te konvencije. Ta konvencija začne veljati na datum prejema zadnjega obvestila.

2) Določbe te konvencije se uporabljajo:

a) za davke, zadržane pri viru od zneskov, plačanih ali pripisanih prvega januarja ali po prvem januarju, ki sledi datumu začetka veljavnosti te konvencije, in

b) za druge davke za davčna leta z začetkom prvega januarja ali po prvem januarju, ki sledi datumu začetka veljavnosti te konvencije.

29. člen

PRENEHANJE VELJAVNOSTI

Ta konvencija velja, dokler je država pogodbenica ne odpove. Vsaka država pogodbenica lahko odpove konvencijo po diplomatski poti z obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta, ki se začne po preteku petih let od datuma začetka veljavnosti konvencije. V takem primeru se konvencija preneha uporabljati:

Article 26

EXCHANGE OF INFORMATION

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

(2) In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 28

ENTRY INTO FORCE

(1) Each Contracting State shall notify to the other Contracting State the completion of the procedures required by its law for the bringing into force this Convention. This Convention shall enter into force on the date of the later of these notifications.

(2) The provisions of this Convention shall have effect:

a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January next following the date upon which this Convention enters into force; and

b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date upon which this Convention enters into force.

Article 29

TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of five years from the date of entry into force of the Convention. In such event, the Convention shall cease to have effect:

a) za davke, zadržane pri viru od zneskov, plačanih ali pripisanih po koncu koledarskega leta, v katerem je bilo dano obvestilo o odpovedi, in

b) za druge davke za davčna leta z začetkom po koncu koledarskega leta, v katerem je bilo dano obvestilo o odpovedi.

V DOKAZ NAVEDENEGA sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala to konvencijo.

Sestavljeno v dveh izvornikih v Ljubljani dne 19. aprila 2001 v slovenskem, turškem in angleškem jeziku, pri čemer so vsa tri besedila enako verodostojna. V primeru razhajanj med besedili prevlada angleško besedilo.

Za Republiko Slovenijo:
Dimitrij Rupel l. r.

Za Republiko Turčijo:
Ismail Cem l. r.

a) with regard to taxes withheld at source, in respect of amounts paid or credited after the end of calendar year in which such notice is given; and

b) with regard to other taxes, in respect of taxable years beginning after the end of calendar year in which such notice is given.

IN WITNESS WHEREOF, the undersigned duly authorized hereto, have signed the present Convention.

Done in duplicate at Ljubljana this 19th day of April 2001 in the Slovenian, Turkish and English languages, all three texts being equally authentic. In the case of divergence between the texts, the English text shall prevail.

For the Republic of Slovenia:
Dimitrij Rupel, (s)

For the Republic of Turkey:
Ismail Cem, (s)

PROTOKOL

Ob podpisu Konvencije med Republiko Slovenijo in Republiko Turčijo o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka sta se podpisana, ki sta bila za to pravilno pooblaščenca, sporazumela o naslednjih določbah, ki so sestavni del te konvencije:

V zvezi z drugim odstavkom 25. člena:

V zvezi z drugim odstavkom 25. člena se razume, da mora v primeru Turčije davkoplačevalec zahtevati vračilo davka na podlagi takega skupnega dogovora v roku enega leta po tem, ko je davčna uprava obvestila davkoplačevalca o rezultatu skupnega dogovora.

Sestavljeno v dveh izvornikih v Ljubljani dne 19. aprila 2001 v slovenskem, turškem in angleškem jeziku, pri čemer so vsa tri besedila enako verodostojna. V primeru razhajanj med besedili prevlada angleško besedilo.

Za Republiko Slovenijo:
Dimitrij Rupel l. r.

Za Republiko Turčijo:
Ismail Cem l. r.

PROTOCOL

At the signing of the Convention between The Republic of Slovenia and The Republic of Turkey for the Avoidance of Double Taxation with respect to Taxes on Income the undersigned duly authorized hereto, have agreed on the following provisions which shall form an integral part of the said Convention:

With reference to paragraph 2 of Article 25:

It is understood that with respect to paragraph 2 of Article 25 the taxpayer must in a case of Turkey claim the refund resulting from such mutual agreement within a period of one year after the tax administration has notified the taxpayer of the result of the mutual agreement.

Done in duplicate at Ljubljana this 19th day of April 2001, in the Slovenian, Turkish and English languages, all three texts being equally authentic. In the case of divergence between the texts, the English text shall prevail.

For the Republic of Slovenia:
Dimitrij Rupel, (s)

For the Republic of Turkey:
Ismail Cem, (s)

3. člen

Za izvajanje konvencije s protokolom skrbi Ministrstvo za finance.

4. člen

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

Št. 432-01/02-22/1

Ljubljana, dne 21. marca 2002

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

30. Zakon o ratifikaciji Sporazuma o vojaškem sodelovanju med Vlado Republike Slovenije in Vlado Republike Turčije (BTUVS)

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 SPORAZUMA O VOJAŠKEM SODELOVANJU MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE TURČIJE (BTUVS)**

Razglašam Zakon o ratifikaciji Sporazuma o vojaškem sodelovanju med Vlado Republike Slovenije in Vlado Republike Turčije (BTUVS), ki ga je sprejel Državni zbor Republike Slovenije na seji 21. marca 2002.

Št. 001-22-29/02
Ljubljana, 29. marca 2002

Predsednik
Republike Slovenije
Milan Kučan l. r.

Z A K O N**O RATIFIKACIJI SPORAZUMA O VOJAŠKEM SODELOVANJU MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE TURČIJE (BTUVS)**

1. člen

Ratificira se Sporazum o vojaškem sodelovanju med Vlado Republike Slovenije in Vlado Republike Turčije, podpisan v Ljubljani 23. oktobra 2001.

2. člen

Sporazum se v izvirniku v slovenskem in angleškem jeziku glasi: *

S P O R A Z U M
O VOJAŠKEM SODELOVANJU
MED VLADO REPUBLIKE SLOVENIJE
IN VLADO REPUBLIKE TURČIJE

Vlada Republike Slovenije in Vlada Republike Turčije (v nadaljnjem besedilu "pogodbenici") sta se,

poudarjajoč svojo zavezanost ciljem in načelom Ustanovne listine Združenih narodov in drugim dokumentom, ki jih je odobrila Organizacija za varnost in sodelovanje v Evropi (OVSE),

v želji, da bi prispevali h krepitvi miru, zaupanja in stabilnosti ter razvijanju dobrih mednarodnih odnosov, in

potrjujoč pripravljenost, da ustvarita enakopravne in prijateljske medsebojne odnose, temelječe na vzajemni koristi, ki bodo prispevali k razvijanju in krepitvi sodelovanja na področju obrambe,
dogovorili:

1. člen
CILJ

Cilj tega sporazuma je določiti in opredeliti okvir načel vojaškega sodelovanja, ki bo vzpostavljeno med pogodbenicoma.

A G R E E M E N T
BETWEEN THE GOVERNMENT OF
THE REPUBLIC OF SLOVENIA AND THE
GOVERNMENT OF THE REPUBLIC OF TURKEY
ON MILITARY COOPERATION

The Government of the Republic of Slovenia and the Government of the Republic of Turkey, (hereinafter referred to as the "Parties");

Emphasizing their commitments to the objectives and principles of the United Nations Charter and the other documents approved by the Organization for Security and Cooperation in Europe (OSCE),

desiring to contribute to the strengthening of peace, confidence, stability, and development of good international relations,

confirming the will to create equal and friendly relations between the Parties based on mutual benefit which would contribute to the development and strengthening of cooperation in the field of defence,

have agreed as follows:

Article I
PURPOSE

The purpose of this Agreement is to determine and to frame the principles of military cooperation that shall be established between the Parties.

* Besedilo v turškem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve Republike Slovenije.

2. člen

OPREDELITEV IZRAZOV

1. "Država pošiljateljica" pomeni pogodbenico, ki drzavi gostiteljici pošlje osebe, material in opremo za namene tega sporazuma.

2. "Država gostiteljica" pomeni pogodbenico, na ozemlju katere so v času izvajanja tega sporazuma osebe, material in oprema države pošiljateljice.

3. "Gostujoče osebe" pomeni vojaške ali civilne osebe, ki jih pogodbenici namestita na ozemlju druge pogodbenice za izvajanje tega sporazuma.

4. "Sodelovanje" pomeni izmenjavo znanja med pogodbenicama in sodelovanje, ki temelji na vzajemnih koristih, določenih z zakonodajo pogodbenic.

3. člen

PODROČJA SODELOVANJA

Pogodbenici razvijata sodelovanje predvsem na teh področjih:

- a) vojaško usposabljanje in izobraževanje;
- b) povabilo udeležencem in opazovalcem na vojaške vaje;
- c) logistika in logistični sistemi;
- d) sodelovanje na področju obrambne industrije;
- e) znanstveni in tehnološki razvoj ter uvajanje novosti na vojaškem področju;
- f) zdravje vojakov in zdravstvene storitve;
- g) vojaška zgodovina in muzeji ter vojaške publikacije in arhivi;
- h) družabne, športne in kulturne dejavnosti;
- i) vojaška topografija, kartografija in infrastrukturne storitve;
- j) zveze, elektronika in informacijski sistemi;
- k) izmenjava informacij;
- l) izmenjava znanja o vojaških pravnih vprašanjih.

4. člen

NAČELA SODELOVANJA

1. Pogodbenici vzpostavita sodelovanje, ki temelji na načelih enakosti in medsebojne koristi, v skladu s pooblastili v slovenskih in turških predpisih.

2. Ta sporazum ne posega v obveznosti ene ali druge pogodbenice, izhajajoče iz drugih mednarodnih sporazumov.

3. Za izvajanje tega sporazuma lahko pogodbenici skleneta izvedbene sporazume in protokole.

4. Odgovorna organa za izvajanje tega sporazuma:

za slovensko stran: Ministrstvo za obrambo Republike Slovenije.

za turško stran: turški generalštab.

5. člen

OBLIKE SODELOVANJA

Sodelovanje med pogodbenicama ima predvsem te oblike:

- uradni obiski in delovna srečanja,
- konference in seminarji,
- izmenjava strokovnjakov, profesorjev in študentov,
- udeležba na tečajih in vajah,
- obiski vojaških enot in ustanov,
- kulturne in športne prireditve.

6. člen

LETNI NAČRT

1. Letni načrti dvostranskega sodelovanja se pripravijo v skladu s tem sporazumom.

Article II

DEFINITIONS

1. The "Sending State" means the Party that sends personnel, material and equipment to Receiving State for the purposes of this Agreement.

2. The "Receiving State" means the State in the territory of which the personnel, material and equipment of the Sending State are located in the course of implementation of this Agreement.

3. The "Guest Personnel" means military or civilian persons that the Parties deploy in the territory of the other Party for the purposes of this Agreement.

4. "Cooperation" means the exchange of knowledge that should be made by the Parties and cooperation based upon reciprocal advantages under the matters determined by the legislation of the two Parties.

Article III

AREAS OF COOPERATION

The Parties shall develop cooperation in the following areas in particular;

- a. Military Training and Education,
- b. Invitation of Participants and Observers to Military Exercises,
- c. Logistics and Logistic Systems,
- d. Defense Industry Cooperation,
- e. Scientific and Technological Development and Introduction of Novelties into the Military Field,
- f. Military Health and Medical Services,
- g. Military History and Museums as well as Military Publications and Archives,
- h. Social, Sports and Culturally Aimed Activities,
- i. Military Topography, Cartography and Infrastructure Services,
- j. Communication, Electronics and Information Systems,
- k. Exchange of Information,
- l. Exchange of Knowledge on Military Legal Issues.

Article IV

PRINCIPLES OF COOPERATION

1. The Parties shall establish cooperation based on the principles of equality and mutual benefit in accordance with the powers provided in the Slovene and Turkish regulations.

2. This Agreement shall not prejudice the obligations of either Party arising from other International Agreements.

3. For carrying out of this Agreement the Parties may conclude Implementation Agreements and Protocols.

4. Responsible authorities for the implementation of this Agreement:

On the Slovenian side: Ministry of Defence of the Republic of Slovenia.

On the Turkish side: Turkish General Staff.

Article V

FORMS OF COOPERATION

Cooperation between the Parties shall be executed in the following forms in particular:

- Official Visits and Working Meetings,
- Conferences and Seminars,
- Exchange of Experts, Professors and Students,
- Attendance at Courses and Exercises,
- Visits to Military Units and Institutions,
- Cultural and Sports Events.

Article VI

ANNUAL PLAN

1. Annual Plans of bilateral cooperation shall be drawn up pursuant to this Agreement.

2. Pogodbenici izmenjata predloga načrtov dvostranskega sodelovanja do 15. oktobra tekočega leta za naslednje koledarsko leto.

3. Delovna skupina, sestavljena iz enakega števila predstavnikov pogodbenic, pripravi letni načrt sodelovanja do 15. novembra za naslednje koledarsko leto.

7. člen

VARSTVO ZAUPNIH PODATKOV

1. Pogodbenici v skladu s predpisi države gostiteljice zavarujeta podatke in ugotovitve, dobljene s sodelovanjem na podlagi tega sporazuma.

2. Pogodbenici se zavezujeta, da z uporabo prejetih podatkov in ugotovitev ne bosta škodovali interesom druge pogodbenice in da takih podatkov in ugotovitev ne bosta dali tretjim osebam brez predhodnega pisnega soglasja pogodbenice, ki je zbrala ali poslala take podatke in ugotovitve.

8. člen

SODNA PRISTOJNOST

Gostujoče osebe, ki je na ozemlju države gostiteljice, spoštuje zakonodajo in predpise te države. Kazniva dejanja, storjena na ozemlju države gostiteljice, se obravnavajo v skladu s Sporazumom med državami pogodbenicami Severnoatlantskega pakta in drugimi državami, ki sodelujejo v Partnerstvu za mir, glede statusa njihovih sil (SOFA).

9. člen

ZDRAVSTVENE STORITVE

1. Gostujoče osebe uživa enake pravice do zdravniških pregledov in zobozdravstvene nege, kot pripadajo osebu na enakem položaju v državi gostiteljici.

2. Zdravstvene storitve, ki zahtevajo zdravljenje, zobno protetiko, zdravila, pripomočke za vid in sluh ter druge pripomočke, razen zdravniških pregledov in zobozdravstvene nege, niso zajete v brezplačnih storitvah.

3. Načela o izvajanju zdravstvenih storitev bodo podrobno opredeljena s protokolom, ki bo sklenjen med pogodbenicama.

10. člen

FINANČNE ZADEVE

1. Za osebne pravice in finančne obveznosti gostujočega osebja, izhajajoče iz sodelovanja po tem sporazumu, je odgovorna država pošiljateljica.

2. Za gostujoče osebe po tem sporazumu glede carinskih dajatev, davkov in menjalnega tečaja velja zakonodaja države gostiteljice.

11. člen

REŠEVANJE SPOROV

Spori, nastali pri razlagi in izvajanju tega sporazuma, se rešujejo s posvetovanjem med pogodbenicama in brez posredovanja tretjih strani.

12. člen

SPREMEMBE, POPRAVKI IN ODPOVED

Pogodbenici lahko pisno predlagata spremembo ali popravek k sporazumu. V takih okoliščinah se pogajanja začnejo v 30 dneh po uradnem pisnem obvestilu. Če ne dosežeta soglasja v 90 dneh, lahko pogodbenici ta sporazum odpovesta v 90 dneh po predhodnem pisnem obvestilu.

Spremembe začnejo veljati v skladu z določbami 14. člena tega sporazuma.

2. The Parties shall exchange proposals for the Plans of Bilateral Cooperation for the subsequent calendar year by 15 October of the current year.

3. A working group composed of an equal number of representatives of both Parties shall prepare the Annual Plan of Cooperation for the subsequent calendar year by 15 November.

Article VII

PROTECTION OF CONFIDENTIAL INFORMATION

1. The Parties shall, in accordance with the regulations of the Receiving Party, protect information and findings acquired through cooperation on the basis of this Agreement.

2. The Parties undertake not to harm to the interests of the other Party by using the received information and findings and shall not convey such information and findings to third parties without the prior written consent of the Party which has collected or sent such information and findings.

Article VIII

RIGHTS OF JURISDICTION

Guest personnel existing in the territory of Receiving State country shall respect to this Nation's laws and regulations. Crimes committed in the territory of Receiving State shall be treated according to the Agreement among the state parties to the North Atlantic Treaty and other states participating in the Partnership for Peace regarding the Status of their Forces Agreement (SOFA).

Article IX

MEDICAL SERVICES

1. Guest Personnel will enjoy the same rights of medical examination and dental care provided to their equivalents in Receiving State.

2. Medical services, except inspection and dental care, which require treatment, dental prosthesis, medicine, visual and auditorial devices and other auxiliary equipment are excluded from free medical services.

3. Implementing principles concerning the medical training and medical services will be stated in detail by another protocol to be concluded between the Parties.

Article X

FINANCIAL MATTERS

1. Personal rights and financial commitments of the guest personnel assigned to the cooperation activities covered by this Agreement shall be borne by the Sending State.

2. Guest Personnel assigned in line with the purposes of this Agreement will be subjected to the customs, taxation and exchange regime Legislation of Receiving State.

Article XI

SETTLEMENT OF DISPUTES

Disputes arising from the interpretation and implementation of this Agreement shall be settled by consultations between the Parties and without the mediation of third parties.

Article XII

AMENDMENT, REVISION AND TERMINATION

Both Parties may propose in writing to amend or revise the Agreement. In such circumstances, the negotiations start within 30 days as of the written notification. If no result is obtained within 90 days either Party may terminate this Agreement after 90 days of prior written notification.

Amendments shall enter into force according to the provisions of Article XIV of this Agreement.

13. člen
TRAJANJE

Ta sporazum traja 5 let. Če ena pogodbenica uradno ne obvesti druge pogodbenice 90 dni pred potekom veljavnosti sporazuma, da odpoveduje sporazum, se ta vsakič podaljša za eno leto.

14. člen**RATIFIKACIJA IN ZAČETEK VELJAVNOSTI**

Ta sporazum začne veljati na dan zadnjega uradnega obvestila, ki ga pogodbenici izmenjata o tem, da so bili dokončani vsi postopki v skladu z njuno notranjo zakonodajo.

Sestavljeno v Ljubljani dne 23. oktobra 2001 v dveh izvornikih v slovenskem, turškem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri razlikah prevlada angleško besedilo.

ZA VLADO
REPUBLIKE SLOVENIJE
dr. Anton Grizold l. r.

ZA VLADO
REPUBLIKE TURČIJE
Sabahattin Cakmakoglu l. r.

Article XIII
DURATION

Duration of this Agreement is 5 years. Unless one Party notifies the other about the termination of the Agreement in writing 90 days before the expiration date, the Agreement shall be extended automatically for one year each time.

Article XIV**RATIFICATION AND ENTRY INTO FORCE**

This Agreement shall enter into force on the date of the last written notification sent by each Party to the other Party that all procedures have been completed in accordance with its national legislation.

Done at Ljubljana on 23 October 2001 in two original copies in Slovene, Turkish and English languages, all texts being equally authentic. In case of differences the English text shall prevail.

ON BEHALF OF THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA
Dr Anton Grizold, (s)

ON BEHALF OF THE GOVERNMENT OF THE REPUBLIC OF TURKEY
Sabahattin Cakmakoglu, (s)

3. člen

Za izvajanje sporazuma skrbi Ministrstvo za obrambo.

4. člen

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

Št. 200-11/02-4/1
Ljubljana, 21. marca 2002

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

VSEBINA

- | | |
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