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42. **Zakon o ratifikaciji Konvencije Združenih narodov proti mednarodnemu organiziranemu kriminalu (MZNMOK)**

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

U K A Z
O RAZGLASITVI ZAKONA O RATIFIKACIJI KONVENCIJE ZDRUŽENIH NARODOV PROTI MEDNARODNEMU ORGANIZIRANEMU KRIMINALU (MZNMOK)

Razglašam Zakon o ratifikaciji Konvencije Združenih narodov proti mednarodnemu organiziranemu kriminalu (MZNMOK), ki ga je sprejel Državni zbor Republike Slovenije na seji 9. aprila 2004.

Št. 001-22-67/04
Ljubljana, dne 19. aprila 2004

Predsednik
Republike Slovenije
dr. Janez Drnovšek l. r.

Z A K O N
O RATIFIKACIJI KONVENCIJE ZDRUŽENIH NARODOV PROTI MEDNARODNEMU ORGANIZIRANEMU KRIMINALU (MZNMOK)

1. člen

Ratificira se Konvencija Združenih narodov proti mednarodnemu organiziranemu kriminalu, podpisana v Palermu dne 12. decembra 2000.

2. člen

Besedilo konvencije se v izvirniku v angleškem jeziku ter prevodu v slovenskem jeziku glasi:

UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

Article 1

Statement of purpose

The purpose of this Convention is to promote cooperation to prevent and combat transnational organized crime more effectively.

Article 2

Use of terms

For the purposes of this Convention:

(a) “Organized criminal group” shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit;

(b) “Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;

(c) “Structured group” shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure;

KONVENCIJA ZDRUŽENIH NARODOV PROTI MEDNARODNEMU ORGANIZIRANEMU KRIMINALU

1. člen

Opredelitev cilja

Cilj konvencije je krepitev sodelovanja za učinkovitejše preprečevanje in zatiranje mednarodnega organiziranega kriminala.

2. člen

Uporaba pojmov

V tej konvenciji:

(a) »organizirana kriminalna združba« pomeni strukturirano skupino treh ali več oseb, ki v daljšem časovnem obdobju usklajeno deluje z namenom storitve enega ali več hudih kaznivih dejanj po tej konvenciji, da bi neposredno ali posredno pridobila finančne ali druge premoženjske koristi;

(b) »hudo kaznivo dejanje« pomeni kaznivo dejanje, ki se kaznuje najmanj s štirimi leti zapora ali strožjo kaznijo;

(c) »strukturirana skupina« pomeni skupino, ki se ni naključno oblikovala za neposredno storitev kaznivega dejanja, za katero pa ni nujno, da so vloge članov formalno določene, da je članstvo v njej trajno ali da ima zahtevno strukturo;

(d) “Property” shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets;

(e) “Proceeds of crime” shall mean any property derived from or obtained, directly or indirectly, through the commission of an offence;

(f) “Freezing” or “seizure” shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

(g) “Confiscation”, which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority;

(h) “Predicate offence” shall mean any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in article 6 of this Convention;

(i) “Controlled delivery” shall mean the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities, with a view to the investigation of an offence and the identification of persons involved in the commission of the offence;

(j) “Regional economic integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it; references to “States Parties” under this Convention shall apply to such organizations within the limits of their competence.

Article 3

Scope of application

1. This Convention shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of:

(a) The offences established in accordance with articles 5, 6, 8 and 23 of this Convention; and

(b) Serious crime as defined in article 2 of this Convention; where the offence is transnational in nature and involves an organized criminal group.

2. For the purpose of paragraph 1 of this article, an offence is transnational in nature if:

(a) It is committed in more than one State;

(b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;

(c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or

(d) It is committed in one State but has substantial effects in another State.

Article 4

Protection of sovereignty

1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

2. Nothing in this Convention entitles a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.

(d) »premoženje« pomeni sredstva vsake vrste, materialna ali nematerialna, premična ali nepremična, denarna ali druga ter pravne dokumente ali instrumente, ki dokazujejo upravičenost ali interese do teh sredstev;

(e) »premoženjska korist, pridobljena s kaznivim dejanjem« pomeni vsako premoženje, ki izhaja iz kaznivega dejanja ali je z njim neposredno ali posredno pridobljeno;

(f) »zamrznitev« ali »zaseg« pomeni začasno prepoved prenosa, menjave, razpolaganja ali gibanja premoženja ali začasno hrambo ali nadzor premoženja na podlagi odredbe sodišča ali drugega pristojnega organa;

(g) »odvzem« pomeni trajni odvzem premoženja po odredbi sodišča ali drugega pristojnega organa;

(h) »predhodno kaznivo dejanje« pomeni vsako kaznivo dejanje, s katerim je bila pridobljena protipravna premoženjska korist, ki lahko postane predmet kaznivega dejanja, določenega v 6. členu te konvencije;

(i) »nadzorovana pošiljka« pomeni metodo, ki dopušča vstop, prehod ali izstop protipravnih ali sumljivih pošiljk na ozemlje, čezenj ali z ozemlja ene ali več držav ob vednosti in pod nadzorom njihovih pristojnih organov z namenom preiskave kaznivega dejanja in identifikacije oseb, udeleženih pri storitvi tega kaznivega dejanja;

(j) »regionalna organizacija za gospodarsko povezovanje« pomeni organizacijo, ki jo sestavljajo suverene države posamezne regije, na katero so države, njene članice, prenesle pristojnosti glede zadev, ki jih ureja ta konvencija, in je bila skladno s svojimi notranjimi postopki ustrezno pooblaščena za podpis, ratifikacijo, sprejetje in odobritev konvencije ali pristop k njej; sklicevanje na »pogodbenice« po tej konvenciji se nanaša na take organizacije v okviru njihove pristojnosti.

3. člen

Področje uporabe

1. Razen če ni drugače določeno, se ta konvencija uporablja za preprečevanje, preiskavo in kazenski pregon:

(a) kaznivih dejanj, določenih v 5., 6., 8. in 23. členu te konvencije, in

(b) hudih kaznivih dejanj, določenih v 2. členu te konvencije, kadar je kaznivo dejanje mednarodne narave in je vanj vpletena organizirana kriminalna združba.

2. Kaznivo dejanje po prvem odstavku tega člena je mednarodne narave, če:

(a) je storjeno v več kot eni državi;

(b) je storjeno v eni državi, vendar se precejšen del priprav, načrtovanja, vodenja ali usmerjanja odvija v drugi državi;

(c) je storjeno v eni državi in je vanj vpletena organizirana kriminalna združba, ki se ukvarja s kriminalnimi dejavnostmi v več kot eni državi;

(d) je storjeno v eni državi, vendar ima precejšnje posledice v drugi državi.

4. člen

Zaščita suverenosti

1. Države pogodbenice izpolnjujejo svoje obveznosti po tej konvenciji skladno z načeli suverene enakosti in ozemeljske nedotakljivosti držav ter načelom nevmešavanja v notranje zadeve drugih držav.

2. Nobena določba te konvencije ne pooblašča države pogodbenice, da na ozemlju druge države izvaja svojo sodno pristojnost ali naloge, ki so izključno v pristojnosti državnih organov te države skladno z njenim notranjim pravom.

Article 5

Criminalization of participation in an organized criminal group

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) Either or both of the following as criminal offences distinct from those involving the attempt or completion of the criminal activity:

(i) Agreeing with one or more other persons to commit a serious crime for a purpose relating directly or indirectly to the obtaining of a financial or other material benefit and, where required by domestic law, involving an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group;

(ii) Conduct by a person who, with knowledge of either the aim and general criminal activity of an organized criminal group or its intention to commit the crimes in question, takes an active part in:

a. Criminal activities of the organized criminal group;

b. Other activities of the organized criminal group in the knowledge that his or her participation will contribute to the achievement of the above-described criminal aim;

(b) Organizing, directing, aiding, abetting, facilitating or counselling the commission of serious crime involving an organized criminal group.

2. The knowledge, intent, aim, purpose or agreement referred to in paragraph 1 of this article may be inferred from objective factual circumstances.

3. States Parties whose domestic law requires involvement of an organized criminal group for purposes of the offences established in accordance with paragraph 1 (a) (i) of this article shall ensure that their domestic law covers all serious crimes involving organized criminal groups. Such States Parties, as well as States Parties whose domestic law requires an act in furtherance of the agreement for purposes of the offences established in accordance with paragraph 1 (a) (i) of this article, shall so inform the Secretary-General of the United Nations at the time of their signature or of deposit of their instrument of ratification, acceptance or approval of or accession to this Convention.

Article 6

Criminalization of the laundering of proceeds of crime

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

5. člen

Kaznivost sodelovanja v organizirani kriminalni združbi

1. Vsaka država pogodbenica sprejme zakonodajne in druge ukrepe, potrebne, da se kot kazniva določijo dejanja, kadar so storjena naklepno:

(a) eno ali drugo ali obe ravnanji, ki nista poskus ali dokončanje kaznivega dejanja:

(i) dogovor z eno ali več osebami za storitev hudega kaznivega dejanja z namenom neposredne ali posredne pridobitve finančne ali druge premoženjske koristi in v skladu z notranjim pravom države tudi dejanje, ki ga stori eden od udeležencev v skladu z dogovorom ali ob vpletenosti organizirane kriminalne združbe;

(ii) ravnanje osebe, ki, seznanjena s ciljem in splošno kriminalno dejavnostjo organizirane kriminalne združbe ali njenim naklepom, da stori zadevna kazniva dejanja, dejavno sodeluje pri:

a. kriminalnih dejavnostih organizirane kriminalne združbe;

b. drugih dejavnostih organizirane kriminalne združbe ob vedenju, da bo njeno sodelovanje prispevalo k uresničitvi navedenih ciljev;

(b) organizacija, vodenje, pomoč, napeljevanje, olajševanje ali svetovanje pri izvedbi hudega kaznivega dejanja, v katero je vpletena organizirana kriminalna združba.

2. Vedenje, naklep, cilj, namen ali dogovor iz prvega odstavka tega člena se lahko ugotavlja na podlagi objektivnih dejanskih okoliščin.

3. Države pogodbenice, katerih notranje pravo za kazniva dejanja, ki so določena v točki i pododstavka a prvega odstavka tega člena, zahteva vpletenost organizirane kriminalne združbe, zagotovijo, da njihova notranja zakonodaja zajema vsa huda kazniva dejanja, v katera so vpletene organizirane kriminalne združbe. Te države pogodbenice kakor tudi tiste države pogodbenice, katerih notranje pravo za kazniva dejanja, določena v skladu s točko i pododstavka a prvega odstavka tega člena, zahteva ravnanje kot nadaljevanje dogovora, ob podpisu ali deponiranju listine o ratifikaciji, sprejetju, odobritvi konvencije ali pristopu k njej o tem obvestijo generalnega sekretarja Združenih narodov.

6. člen

Kaznivost pranja premoženjske koristi, pridobljene s kaznivim dejanjem

1. Vsaka država pogodbenica v skladu s temeljnimi načeli svojega notranjega prava sprejme zakonodajne in druge ukrepe, potrebne, da se kot kazniva določijo dejanja, kadar so storjena naklepno:

(a) (i) menjava ali prenos premoženja z vednostjo, da gre za premoženjsko korist, pridobljeno s kaznivim dejanjem, da se prikrije nezakonit izvor premoženja ali pomaga osebi, vpleteni v storitev predhodnega kaznivega dejanja, da se izogne pravnim posledicam tega dejanja;

(ii) skrivanje ali prikrivanje prave narave, izvora, kraja, razpolaganja, gibanja ali lastništva premoženja ali pravic v zvezi z njim, kadar se ve, da je tako premoženje premoženjska korist;

(b) v skladu s temeljnimi načeli svojega notranjega prava tudi:

(i) pridobitev, posest ali uporaba premoženja, kadar se ob prejemu ve, da je bilo tako premoženje premoženjska korist;

(ii) udeležba, povezovanje ali tajen dogovor o storitvi ali poskusu storitve kaznivega dejanja, določenega v skladu s tem členom, ter pomoč, napeljevanje, omogočanje in svetovanje pri storitvi takega kaznivega dejanja.

2. For purposes of implementing or applying paragraph 1 of this article:

(a) Each State Party shall seek to apply paragraph 1 of this article to the widest range of predicate offences;

(b) Each State Party shall include as predicate offences all serious crime as defined in article 2 of this Convention and the offences established in accordance with articles 5, 8 and 23 of this Convention. In the case of States Parties whose legislation sets out a list of specific predicate offences, they shall, at a minimum, include in such list a comprehensive range of offences associated with organized criminal groups;

(c) For the purposes of subparagraph (b), predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article had it been committed there;

(d) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations;

(e) If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence;

(f) Knowledge, intent or purpose required as an element of an offence set forth in paragraph 1 of this article may be inferred from objective factual circumstances.

Article 7

Measures to combat money-laundering

1. Each State Party:

(a) Shall institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer identification, record-keeping and the reporting of suspicious transactions;

(b) Shall, without prejudice to articles 18 and 27 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

3. In establishing a domestic regulatory and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

2. Za izvajanje ali uporabo prvega odstavka tega člena:

(a) vsaka država pogodbenica uporablja prvi odstavek tega člena za čim širši obseg predhodnih kaznivih dejanj;

(b) vsaka država pogodbenica med predhodna kazniva dejanja uvrsti vsa huda kazniva dejanja, kot so določena v 2. členu te konvencije, in kazniva dejanja, določena v 5., 8. in 23. členu te konvencije. Države pogodbenice, katerih zakonodaja vsebuje seznam določenih predhodnih kaznivih dejanj, vanj vključijo čim več kaznivih dejanj, v katera so vpletene organizirane kriminalne združbe.

(c) za namene pododstavka b predhodna kazniva dejanja vključujejo dejanja, storjena v sodni pristojnosti države pogodbenice in zunaj nje. Dejanja, storjena zunaj sodne pristojnosti države pogodbenice, so predhodna kazniva dejanja le, če so kazniva po notranjem pravu države, v kateri je bilo dejanje storjeno, in bi bila kazniva tudi po notranjem pravu države pogodbenice, ki izvaja ali uporablja ta člen, če bi do njih prišlo na njenem ozemlju;

(d) vsaka država pogodbenica generalnemu sekretarju Združenih narodov pošlje kopije svojih zakonov, ki uveljavljajo ta člen, prav tako pa tudi vse njihove naknadne spremembe ali njihov opis;

(e) če to zahtevajo temeljna načela notranjega prava pogodbenice, se lahko določi, da se kazniva dejanja, navedena v prvem odstavku tega člena, ne nanašajo na osebe, ki so storile predhodno kaznivo dejanje;

(f) vedenje, naklep ali namen iz prvega odstavka tega člena se lahko ugotavlja na podlagi objektivnih dejanskih okoliščin.

7. člen

Ukrepi za preprečevanje pranja denarja

1. Vsaka država pogodbenica:

(a) zaradi odkrivanja in preprečevanja vseh oblik pranja denarja znotraj svoje pristojnosti vzpostavi obširen notranji sistem predpisov in nadzora za banke in druge finančne ustanove, in če je to potrebno, za druge organe, posebej občutljive za pranje denarja; ta sistem poudarja zahteve po identifikaciji strank, vodenje evidenc in poročanje o sumljivih transakcijah;

(b) zagotovi, ne da bi s tem posegala v 18. in 27. člen te konvencije, da imajo upravni organi, organi kazenskega pregona in drugi organi, katerih naloga je boj proti pranju denarja (vključno s sodišči, če tako narekuje notranje pravo države), možnost za sodelovanje in izmenjavo informacij na državni in mednarodni ravni pod pogoji, ki jih določa notranji pravni red, in v ta namen preučijo možnosti za ustanovitev finančne obveščevalne enote, ki bi bila državni center za zbiranje, analizo in dajanje informacij o možnem pranju denarja.

2. Države pogodbenice preučijo izvedljive ukrepe za odkrivanje in spremljanje gotovine in ustreznih prenosljivih vrednostnih papirjev čez svoje meje z zaščitnimi ukrepi, ki zagotavljajo ustrezno uporabo informacij in na noben način ne ovirajo gibanja zakonitega kapitala. Ti ukrepi lahko vključujejo zahtevo, da posamezniki in pravne osebe poročajo o prenosu večjih količin gotovine in ustreznih prenosljivih vrednostnih papirjev čez meje.

3. Pri vzpostavljanju notranjega sistema predpisov in nadzora po določbah tega člena ter brez poseganja v kateri koli drug člen te konvencije naj države pogodbenice kot usmeritve uporabljajo ustrezne pobude regionalnih, medregionalnih in večstranskih organizacij proti pranju denarja.

4. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

Article 8

Criminalization of corruption

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences conduct referred to in paragraph 1 of this article involving a foreign public official or international civil servant. Likewise, each State Party shall consider establishing as criminal offences other forms of corruption.

3. Each State Party shall also adopt such measures as may be necessary to establish as a criminal offence participation as an accomplice in an offence established in accordance with this article.

4. For the purposes of paragraph 1 of this article and article 9 of this Convention, "public official" shall mean a public official or a person who provides a public service as defined in the domestic law and as applied in the criminal law of the State Party in which the person in question performs that function.

Article 9

Measures against corruption

1. In addition to the measures set forth in article 8 of this Convention, each State Party shall, to the extent appropriate and consistent with its legal system, adopt legislative, administrative or other effective measures to promote integrity and to prevent, detect and punish the corruption of public officials.

2. Each State Party shall take measures to ensure effective action by its authorities in the prevention, detection and punishment of the corruption of public officials, including providing such authorities with adequate independence to deter the exertion of inappropriate influence on their actions.

Article 10

Liability of legal persons

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in serious crimes involving an organized criminal group and for the offences established in accordance with articles 5, 6, 8 and 23 of this Convention.

2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

4. Države pogodbenice si prizadevajo, da razvijajo in pospešujejo globalno, regionalno, subregionalno in dvostransko sodelovanje med sodnimi organi, organi odkrivanja in pregona in organi za finančni nadzor za boj proti pranju denarja.

8. člen

Kaznivost korupcije

1. Vsaka država pogodbenica sprejme zakonodajne in druge ukrepe, potrebne, da se kot kazniva določijo dejanja, kadar so storjena naklepno:

(a) neposredno ali posredno obljubljanje, ponujanje ali dajanje neupravičenih ugodnosti javnemu uslužbencu, zanj ali za drugo fizično ali pravno osebo, da uslužbenec pri izvajanju svojih uradnih dolžnosti opravi uradno dejanje ali ga ne opravi;

(b) če javni uslužbenec posredno ali neposredno zase ali za drugo fizično ali pravno osebo zahteva ali sprejme neupravičeno ugodnost, da uslužbenec pri izvajanju svojih uradnih dolžnosti opravi uradno dejanje ali ga ne opravi.

2. Vsaka država pogodbenica preuči sprejem zakonodajnih ali drugih ukrepov, potrebnih, da se kot kaznivo določi ravnanje, opisano v prvem odstavku tega člena, v katero je vpleten tuj ali mednarodni javni uslužbenec. Prav tako vsaka država pogodbenica preuči določitev drugih oblik korupcije za kazniva dejanja.

3. Vsaka država pogodbenica sprejme ukrepe, potrebne, da se kot kaznivo dejanje določi tudi sostorilstvo pri kaznivem dejanju iz tega člena.

4. Za namene prvega odstavka tega člena in 9. člena te konvencije je »javni uslužbenec« javni uslužbenec ali oseba, ki opravlja javno službo, kot jo določa notranje pravo in se uporablja v kazenski zakonodaji države pogodbenice, v kateri ta oseba opravlja svojo funkcijo.

9. člen

Ukrepi proti korupciji

1. Razen ukrepov, določenih v 8. členu te konvencije, vsaka država pogodbenica v skladu s svojim pravnim redom sprejme ustrezne zakonske, upravne ali druge učinkovite ukrepe za zagotavljanje integritete in preprečevanje, odkrivanje in kaznovanje podkupovanja javnih uslužbencev.

2. Vsaka država pogodbenica sprejme ukrepe za učinkovito delovanje svojih organov pri preprečevanju, odkrivanju in kaznovanju korupcije javnih uslužbencev, tudi z zagotavljanjem ustrezne neodvisnosti teh organov, da se prepreči neprimeren vpliv nanje.

10. člen

Odgovornost pravnih oseb

1. Država pogodbenica skladno s svojimi pravnimi načeli sprejme potrebne ukrepe za določitev odgovornosti pravnih oseb za udeležbo pri hudih kaznivih dejanjih, v katera so vpletene organizirane kriminalne združbe, in pri kaznivih dejanjih, določenih v skladu s 5., 6., 8. in 23. členom te konvencije.

2. Skladno s pravnimi načeli države pogodbenice je odgovornost pravnih oseb lahko kazenska, civilna ali upravna.

3. Taka odgovornost ne posega v kazensko odgovornost fizičnih oseb, ki so storile kazniva dejanja.

4. Država pogodbenica še posebej zagotovi, da so pravne osebe, odgovorne po določbah tega člena, kaznovane z učinkovitimi, sorazmernimi in odvračilnimi kazenskimi ali nekazenskimi sankcijami, vključno z denarnimi kaznimi.

Article 11

Prosecution, adjudication and sanctions

1. Each State Party shall make the commission of an offence established in accordance with articles 5, 6, 8 and 23 of this Convention liable to sanctions that take into account the gravity of that offence.

2. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences covered by this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

3. In the case of offences established in accordance with articles 5, 6, 8 and 23 of this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

4. Each State Party shall ensure that its courts or other competent authorities bear in mind the grave nature of the offences covered by this Convention when considering the eventuality of early release or parole of persons convicted of such offences.

5. Each State Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence covered by this Convention and a longer period where the alleged offender has evaded the administration of justice.

6. Nothing contained in this Convention shall affect the principle that the description of the offences established in accordance with this Convention and of the applicable legal defences or other legal principles controlling the lawfulness of conduct is reserved to the domestic law of a State Party and that such offences shall be prosecuted and punished in accordance with that law.

11. člen

Kazenski pregon, sojenje in sankcije

1. Država pogodbenica za storitev kaznivega dejanja, določenega v skladu s 5., 6., 8. in 23. členom te konvencije, določi sankcije glede na težo takega kaznivega dejanja.

2. Država pogodbenica si prizadeva za tako izvajanje diskrecijskih pooblastil po notranjem pravu, ki se nanašajo na kazenski pregon oseb zaradi kaznivih dejanj, ki jih zajema ta konvencija, da se zagotovi kar največja učinkovitost ukrepov kazenskega pregona za ta kazniva dejanja in ob upoštevanju odvračanja od takih kaznivih dejanj.

3. V primeru kaznivih dejanj, določenih v skladu s 5., 6., 8. in 23. členom te konvencije, vsaka država pogodbenica sprejme ustrezne ukrepe skladno s svojim notranjim pravom in ob upoštevanju pravic obrambe, s katerimi skuša zagotoviti, da pogoji v zvezi z odločitvami o izpustitvi na prostost med sojenjem ali pritožbenim postopkom upoštevajo, da je treba zagotoviti navzočnost obdolženca v nadaljnjem kazenskem postopku.

4. Država pogodbenica zagotovi, da njena sodišča ali drugi pristojni organi upoštevajo težo kaznivih dejanj, ki jih zajema ta konvencija, ob obravnavi možnosti za predčasno izpustitev na prostost ali pogojni odpust oseb, obsojenih za taka kazniva dejanja.

5. Kadar je to primerno, država pogodbenica skladno s svojim notranjim pravom določi dolg rok za zastaranje kazenskega pregona za katero koli kaznivo dejanje, ki ga zajema ta konvencija, in daljši rok, če se je domnevni storilec izognil pravici.

6. Nobena določba te konvencije ne vpliva na načelo, da opis kaznivih dejanj, določenih v tej konvenciji, in ustrezno obrambo ali druga pravna načela za nadzor nad zakonitostjo ravnanja ureja notranje pravo države pogodbenice in da se ta kazniva dejanja preganjajo in kaznujejo v skladu s tem pravom.

Article 12

Confiscation and seizure

1. States Parties shall adopt, to the greatest extent possible within their domestic legal systems, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences covered by this Convention or property the value of which corresponds to that of such proceeds;

(b) Property, equipment or other instrumentalities used in or destined for use in offences covered by this Convention.

2. States Parties shall adopt such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

3. If proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

4. If proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

5. Income or other benefits derived from proceeds of crime, from property into which proceeds of crime have been transformed or converted or from property with which proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

12. člen

Odvzem in zaseg

1. Države pogodbenice v skladu s svojim pravnim redom sprejmejo ukrepe, ki v največji mogoči meri omogočajo odvzem:

(a) premoženjske koristi, pridobljene s kaznivimi dejanji, ki jih zajema ta konvencija, ali premoženja, katerega vrednost ustreza višini take koristi;

(b) premoženja, opreme ali drugih predmetov, uporabljenih ali namenjenih za uporabo pri kaznivih dejanjih, ki jih zajema ta konvencija.

2. Države pogodbenice zaradi morebitnega odvzema sprejmejo potrebne ukrepe za identifikacijo, odkrivanje, zamrznitev ali zaseg sredstev iz prvega odstavka tega člena.

3. Če je bila premoženjska korist, pridobljena s kaznivim dejanjem, v celoti ali deloma spremenjena v drugo premoženje, se tudi zoper to premoženje uporabijo ukrepi iz tega člena.

4. Če je premoženjska korist, pridobljena s kaznivim dejanjem, pomešana z zakonito pridobljenim premoženjem, se tako premoženje ne glede na pooblastila v zvezi z zamrznitvijo ali zasegom odvzame do ocenjene vrednosti premoženjske koristi, pridobljene s kaznivim dejanjem.

5. Za dohodek ali druge koristi iz premoženjske koristi, pridobljene s kaznivim dejanjem, iz premoženja, v katero so se spremenile ali s katerim so se pomešale, prav tako veljajo ukrepi iz tega člena na enak način in v enakem obsegu kot za premoženjsko korist, pridobljeno s kaznivim dejanjem.

6. For the purposes of this article and article 13 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. States Parties shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

7. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the principles of their domestic law and with the nature of the judicial and other proceedings.

8. The provisions of this article shall not be construed to prejudice the rights of bona fide third parties.

9. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a State Party.

Article 13

International cooperation for purposes of confiscation

1. A State Party that has received a request from another State Party having jurisdiction over an offence covered by this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 12, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with article 12, paragraph 1, of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 12, paragraph 1, situated in the territory of the requested State Party.

2. Following a request made by another State Party having jurisdiction over an offence covered by this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 12, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

3. The provisions of article 18 of this Convention are applicable, *mutatis mutandis,* to this article. In addition to the information specified in article 18, paragraph 15, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested.

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral treaty, agreement or arrangement to which it may be bound in relation to the requesting State Party.

6. Za namene tega člena in 13. člena te konvencije država pogodbenica pooblasti svoja sodišča ali druge pristojne organe, da odredijo, da se bančna, finančna ali poslovna dokumentacija predloži ali zaseže. Države pogodbenice ne smejo zavrniti ukrepanja po določbah tega odstavka zaradi bančne tajnosti.

7. Države pogodbenice lahko predvidijo možnost, da od storilca kaznivega dejanja zahtevajo, da dokaže zakoniti izvor domnevne premoženjske koristi, pridobljene s kaznivim dejanjem, ali drugega premoženja, ki naj bi se odvzelo, do obsega, če je ta zahteva v skladu z načeli njihovega notranjega prava in naravo sodnih in drugih postopkov.

8. Določbe tega člena se ne smejo razlagati tako, da posegajo v pravice dobrovernih tretjih oseb.

9. Nobena določba tega člena ne vpliva na načelo, da se ukrepi, na katere se člen nanaša, določijo in izvajajo v skladu z določbami notranjega prava države pogodbenice.

13. člen

Mednarodno sodelovanje zaradi odvzema

1. Država pogodbenica, ki od druge države pogodbenice, pristojne za kaznivo dejanje po tej konvenciji, prejme zaprosilo za odvzem premoženjske koristi, pridobljene s kaznivim dejanjem, premoženja, opreme ali drugih predmetov, navedenih v prvem odstavku 12. člena te konvencije, in so na njenem ozemlju, v največjem mogočem obsegu v skladu s svojim pravnim redom:

(a) predloži zaprosilo svojim pristojnim organom, da izdajo odredbo za odvzem, in če je izdana, jo tudi izvrši, ali

(b) predloži svojim pristojnim organom odredbo za odvzem, ki jo je skladno s prvim odstavkom 12. člena te konvencije izdalo sodišče pogodbenice prosilke, da odredbo izvršijo do zaprošenega obsega, če se nanaša na premoženjsko korist, premoženje, opremo ali druge predmete, navedene v prvem odstavku 12. člena, in so na ozemlju zaprošene pogodbenice.

2. Skladno z zaprosilom druge države pogodbenice, pristojne za kaznivo dejanje po tej konvenciji, zaprošena pogodbenica sprejme ukrepe za identifikacijo, odkrivanje in zamrznitev ali zaseg premoženjske koristi, pridobljene s kaznivim dejanjem, premoženja, opreme ali drugih predmetov, navedenih v prvem odstavku 12. člena konvencije, zaradi morebitnega odvzema, ki ga odredi pogodbenica prosilka ali zaprošena pogodbenica v skladu z zaprosilom iz prvega odstavka tega člena.

3. Določbe 18. člena konvencije se *mutatis mutandis* nanašajo na ta člen. Poleg podatkov, navedenih v petnajstem odstavku 18. člena, zaprosila skladno s tem členom vsebujejo:

(a) če gre za zaprosilo po pododstavku a prvega odstavka tega člena, opis premoženja, ki naj se odvzame, ter opis dejstev, na katere se sklicuje pogodbenica prosilka in zaprošeni pogodbenici zadostujejo, da pridobi odredbe po svojem notranjem pravu;

(b) če gre za zaprosilo po pododstavku b prvega odstavka tega člena, pravno sprejemljiv izvod odredbe za odvzem, ki jo je izdala pogodbenica prosilka in na kateri temelji zaprosilo, opis dejstev in podatke, do katerega obsega se zahteva izvršitev odredbe;

(c) če gre za zaprosilo po drugem odstavku tega člena, opis dejstev, na katera se sklicuje pogodbenica prosilka, ter opis zaprošenih ukrepov.

4. Zaprošena pogodbenica sprejme odločitve ali ukrepe po prvem in drugem odstavku tega člena v skladu z določbami svojega notranjega prava in postopkovnimi pravili ali dvostranskimi ali večstranskimi pogodbami, sporazumi ali dogovori, ki jo zavezujejo do pogodbenice prosilke.

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

7. Cooperation under this article may be refused by a State Party if the offence to which the request relates is not an offence covered by this Convention.

8. The provisions of this article shall not be construed to prejudice the rights of bona fide third parties.

9. States Parties shall consider concluding bilateral or multilateral treaties, agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this article.

Article 14

Disposal of confiscated proceeds of crime or property

1. Proceeds of crime or property confiscated by a State Party pursuant to articles 12 or 13, paragraph 1, of this Convention shall be disposed of by that State Party in accordance with its domestic law and administrative procedures.

2. When acting on the request made by another State Party in accordance with article 13 of this Convention, States Parties shall, to the extent permitted by domestic law and if so requested, give priority consideration to returning the confiscated proceeds of crime or property to the requesting State Party so that it can give compensation to the victims of the crime or return such proceeds of crime or property to their legitimate owners.

3. When acting on the request made by another State Party in accordance with articles 12 and 13 of this Convention, a State Party may give special consideration to concluding agreements or arrangements on:

(a) Contributing the value of such proceeds of crime or property or funds derived from the sale of such proceeds of crime or property or a part thereof to the account designated in accordance with article 30, paragraph 2 (c), of this Convention and to intergovernmental bodies specializing in the fight against organized crime;

(b) Sharing with other States Parties, on a regular or case-by-case basis, such proceeds of crime or property, or funds derived from the sale of such proceeds of crime or property, in accordance with its domestic law or administrative procedures.

Article 15

Jurisdiction

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with articles 5, 6, 8 and 23 of this Convention when:

(a) The offence is committed in the territory of that State Party; or

(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State Party;

5. Vsaka pogodbenica pošlje generalnemu sekretarju Združenih narodov kopije svojih zakonov in predpisov, s katerimi uveljavlja ta člen, prav tako pa tudi vse njihove naknadne spremembe ali njihov opis.

6. Če država pogodbenica sprejem ukrepov iz prvega in drugega odstavka tega člena pogojuje z obstojem ustrezne pogodbe, to konvencijo šteje za potrebno in zadostno pogodbeno podlago.

7. Država pogodbenica lahko odkloni sodelovanje po tem členu, če kaznivo dejanje, na katero se nanaša zaprosilo, ni kaznivo dejanje po tej konvenciji.

8. Določbe tega člena se ne smejo razlagati tako, da posegajo v pravice dobrovernih tretjih oseb.

9. Države pogodbenice preučijo možnosti za sklenitev dvostranskih ali večstranskih pogodb, sporazumov ali dogovorov, da bi tako povečale učinkovitost mednarodnega sodelovanja na podlagi tega člena.

14. člen

Razpolaganje z odvzeto premoženjsko koristjo, pridobljeno s kaznivim dejanjem, ali premoženjem

1. S premoženjsko koristjo, pridobljeno s kaznivim dejanjem, ali premoženjem, ki ga država pogodbenica vzame po določbah 12. člena ali prvega odstavka 13. člena te konvencije, razpolaga skladno s svojim notranjim pravom in upravnimi postopki.

2. Kadar ukrepajo na podlagi zaprosila druge države pogodbenice skladno s 13. členom te konvencije, države pogodbenice, če to dopušča njihovo notranje pravo in če je tako zaprošeno, prednostno obravnavajo vrnitev odvzete premoženjske koristi, pridobljene s kaznivim dejanjem, ali premoženja pogodbenici prosilki, da lahko ta da odškodnino žrtvam kaznivega dejanja ali vrne premoženjsko korist, pridobljeno s kaznivim dejanjem, ali premoženje njegovim zakonitim lastnikom.

3. Kadar država pogodbenica ukrepa na podlagi zaprosila druge države pogodbenice skladno z 12. in 13. členom te konvencije, lahko posebej preuči sklenitev sporazumov ali dogovorov o:

(a) prenosu vrednosti odvzete premoženjske koristi, pridobljene s kaznivim dejanjem, ali premoženja ali sredstev, ki izvirajo iz prodaje te koristi ali premoženja ali njihovega dela, na račun, določen v pododstavku c drugega odstavka 30. člena te konvencije, in medvladnim organizacijam, specializiranim za boj proti organiziranemu kriminalu;

(b) delitvi odvzete premoženjske koristi, pridobljene s kaznivim dejanjem, ali premoženja ali sredstev, ki izvirajo iz prodaje te koristi ali premoženja, z drugimi pogodbenicami v vseh ali v posameznih primerih, v skladu s svojim notranjim pravom.

15. člen

Sodna pristojnost

1. Vsaka država pogodbenica sprejme ukrepe, potrebne za določitev njene sodne pristojnosti za kazniva dejanja po 5., 6., 8. in 23. členu te konvencije, kadar:

(a) je kaznivo dejanje storjeno na njenem ozemlju ali

(b) je kaznivo dejanje storjeno na ladji, ki pluje pod njeno zastavo, ali na letalu, registriranem po njeni zakonodaji v času, ko je bilo storjeno kaznivo dejanje.

2. Ob upoštevanju 4. člena te konvencije lahko pogodbenica za ta kazniva dejanja določi svojo sodno pristojnost tudi, kadar:

(a) je kaznivo dejanje storjeno proti njenemu državljanu;

(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

(c) The offence is:

(i) One of those established in accordance with article 5, paragraph 1, of this Convention and is committed outside its territory with a view to the commission of a serious crime within its territory;

(ii) One of those established in accordance with article 6, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article 6, paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory.

3. For the purposes of article 16, paragraph 10, of this Convention, each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences covered by this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

4. Each State Party may also adopt such measures as may be necessary to establish its jurisdiction over the offences covered by this Convention when the alleged offender is present in its territory and it does not extradite him or her.

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that one or more other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

6. Without prejudice to norms of general international law, this Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 16

Extradition

1. This article shall apply to the offences covered by this Convention or in cases where an offence referred to in article 3, paragraph 1 (a) or (b), involves an organized criminal group and the person who is the subject of the request for extradition is located in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.

2. If the request for extradition includes several separate serious crimes, some of which are not covered by this article, the requested State Party may apply this article also in respect of the latter offences.

3. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

4. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.

5. States Parties that make extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of their instrument of ratification, acceptance, approval of or accession to this Convention, inform the Secretary-General of the United Nations whether they will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

(b) je kaznivo dejanje storil njen državljan ali oseba brez državljanstva, ki ima stalno prebivališče na njenem ozemlju, ali

(c) gre za eno od kaznivih dejanj:

(i) po prvem odstavku 5. člena te konvencije in je storjeno zunaj njenega ozemlja z namenom izvršitve hudega kaznivega dejanja na njenem ozemlju;

(ii) po točki ii pododstavka b prvega odstavka 6. člena te konvencije in je storjeno zunaj njenega ozemlja z namenom izvršitve kaznivega dejanja po točki i ali ii pododstavka a prvega odstavka ali točki i pododstavka b prvega odstavka 6. člena te konvencije na njenem ozemlju.

3. Za namene desetega odstavka 16. člena te konvencije država pogodbenica sprejme ukrepe, potrebne za določitev njene sodne pristojnosti za kazniva dejanja po tej konvenciji, kadar je domnevni storilec na njenem ozemlju in ga pogodbenica ne izroči samo zato, ker ima njeno državljanstvo.

4. Država pogodbenica lahko sprejme ukrepe, potrebne za določitev njene sodne pristojnosti za kazniva dejanja po tej konvenciji, kadar je domnevni storilec na njenem ozemlju in ga ne izroči.

5. Kadar je država pogodbenica, ki izvaja svojo sodno pristojnost po prvem ali drugem odstavku tega člena, obveščena ali kako drugače izve, da ena ali več držav pogodbenic vodi preiskavo, kazenski pregon ali sodni postopek glede istega dejanja, se pristojni organi teh pogodbenic po potrebi posvetujejo, da uskladijo svoje ukrepanje.

6. Ta konvencija ne glede na norme splošnega mednarodnega prava ne izključuje izvajanja sodne pristojnosti v kazenskih zadevah, ki jo pogodbenica določi v skladu s svojim notranjim pravom.

16. člen

Izročitev

1. Ta člen se uporablja za kazniva dejanja, ki jih zajema ta konvencija, ali kadar je v kaznivo dejanje, navedeno v pododstavku a ali b prvega odstavka 3. člena te konvencije, vpletena organizirana kriminalna združba in je oseba, za izročitev katere se prosi, na ozemlju zaprošene pogodbenice, če je kaznivo dejanje, zaradi katerega se zahteva izročitev, kaznivo po notranjem pravu pogodbenice prosilke in zaprošene pogodbenice.

2. Če se prosi za izročitev zaradi več posameznih hudih kaznivih dejanj, med katerimi niso vsa zajeta v tem členu, lahko zaprošena pogodbenica uporabi ta člen tudi za ta kazniva dejanja.

3. Vsako kaznivo dejanje, za katero se uporablja ta člen, se šteje, da je vključeno v že obstoječe pogodbe o izročitvi med državami pogodbenicami kot kaznivo dejanje, zaradi katerega se storilec izroči. Države pogodbenice ta kazniva dejanja kot kazniva dejanja, za katera se storilec izroči, vključijo tudi v vsako pogodbo o izročitvi, ki jo bodo šele sklenile med seboj.

4. Če država pogodbenica, ki izročitev pogojuje s pogodbo, prejme prošnjo za izročitev od druge države pogodbenice, s katero nima sklenjene pogodbe o izročitvi, lahko šteje to konvencijo kot pravno podlago za izročitev glede katerega koli kaznivega dejanja, na katero se ta člen nanaša.

5. Države pogodbenice, ki izročitev pogojujejo s pogodbo:

(a) ob deponiranju listine o ratifikaciji, sprejetju ali odobritvi konvencije ali pristopu k njej obvestijo generalnega sekretarja Združenih narodov o tem, ali bodo to konvencijo vzele kot pravno podlago za sodelovanje pri izročitvah z drugimi državami pogodbenicami te konvencije in

(b) If they do not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.

6. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

7. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

8. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

9. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.

10. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

11. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 10 of this article.

12. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting Party, consider the enforcement of the sentence that has been imposed under the domestic law of the requesting Party or the remainder thereof.

13. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

14. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

(b) če te konvencije ne priznajo za pravno podlago za sodelovanje pri izročitvah, si zaradi izvajanja tega člena prizadevajo sklepati pogodbe o izročitvah z drugimi državami pogodbenicami te konvencije, kadar je to primerno.

6. Države pogodbenice, ki izročitve ne pogojujejo s pogodbo, štejejo kazniva dejanja, na katera se ta člen nanaša, za kazniva dejanja, za katera te države med seboj izročajo storilce.

7. Za izročitev veljajo pogoji, določeni z notranjim pravom zaprošene pogodbenice ali s pogodbami o izročitvi, ki se uporabljajo med državami pogodbenicami, vključno s pogoji glede najnižje zahtevane kazni za izročitev in razlogi, zaradi katerih lahko zaprošena pogodbenica odkloni izročitev.

8. Države pogodbenice si skladno s svojim notranjim pravom prizadevajo pospešiti postopke izročitev in poenostaviti s tem povezane zahteve po dokazih glede katerega koli kaznivega dejanja, na katero se nanaša ta člen.

9. Zaprošena pogodbenica lahko ob upoštevanju določb svojega notranjega prava in pogodb o izročitvi, ki jih je sklenila, na prošnjo pogodbenice prosilke in če meni, da okoliščine to opravičujejo in je zadeva nujna, pripre osebo, katere izročitev se zahteva in je na njenem ozemlju, ali sprejme druge ustrezne ukrepe za zagotovitev njene navzočnosti v postopku izročitve.

10. Če država pogodbenica, na katere ozemlju je domnevni storilec kaznivega dejanja po tem členu, te osebe ne izroči, ker je njen državljan, mora na prošnjo pogodbenice, ki prosi za izročitev, nemudoma predati zadevo svojim pristojnim organom zaradi kazenskega pregona. Ti organi se odločijo glede uvedbe postopka in njegovega vodenja na enak način kot pri katerem koli drugem hudem kaznivem dejanju po notranjem pravu te države pogodbenice. Države pogodbenice v takih primerih sodelujejo, še posebej v postopku in pri dokazih, da zagotovijo učinkovitost kazenskega pregona.

11. Če lahko država pogodbenica po svojem notranjem pravu izroči ali drugače preda svojega državljana le pod pogojem, da se bo vrnil v to državo pogodbenico na prestajanje kazni, ki mu je bila izrečena ob koncu sojenja ali postopka, zaradi katerega je bila izročitev ali predaja zaprošena, in se državi pogodbenici strinjata s tem pogojem in drugimi pogoji, ki se jima zdijo primerni, taka pogojna izročitev ali predaja zadošča za to, da obveznosti iz desetega odstavka tega člena ni treba izpolniti.

12. Če se izročitev, ki se zahteva zaradi izvršitve kazni, zavrne samo zato, ker je oseba, za izročitev katere se prosi, državljan zaprošene pogodbenice, ta, če to dopušča njeno notranje pravo in v skladu z zahtevami tega prava na prošnjo pogodbenice prosilke, preuči možnost izvršitve kazni, izrečene po notranjem pravu pogodbenice prosilke, ali njenega preostanka.

13. Vsaki osebi, proti kateri teče sodni postopek zaradi katerega koli kaznivega dejanja po tem členu, se zagotovi poštena obravnava na vseh stopnjah sodnega postopka, vključno z vsemi pravicami in jamstvi, ki jih določa notranje pravo pogodbenice, na ozemlju katere je ta oseba.

14. Nobena določba te konvencije se ne razlaga tako, da zaprošeno pogodbenico obvezuje k izročitvi, če ima utemeljene razloge, da meni, da je bila prošnja vložena zaradi kazenskega pregona ali kaznovanja osebe zaradi njenega spola, rase, vere, državljanstva, etničnega porekla ali političnega prepričanja, ali da bi ugoditev prošnji škodila položaju te osebe iz katerega koli navedenega razloga.

15. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

16. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

17. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

Article 17

Transfer of sentenced persons

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences covered by this Convention, in order that they may complete their sentences there.

Article 18

Mutual legal assistance

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention as provided for in article 3 and shall reciprocally extend to one another similar assistance where the requesting State Party has reasonable grounds to suspect that the offence referred to in article 3, paragraph 1 (a) or (b), is transnational in nature, including that victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State Party and that the offence involves an organized criminal group.

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 10 of this Convention in the requesting State Party.

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

(a) Taking evidence or statements from persons;

(b) Effecting service of judicial documents;

(c) Executing searches and seizures, and freezing;

(d) Examining objects and sites;

(e) Providing information, evidentiary items and expert evaluations;

(f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;

(g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;

(h) Facilitating the voluntary appearance of persons in the requesting State Party;

(i) Any other type of assistance that is not contrary to the domestic law of the requested State Party.

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.

15. Države pogodbenice ne smejo zavrniti prošnje za izročitev samo zato, ker se šteje, da gre za kaznivo dejanje v zvezi z davki.

16. Preden zavrne izročitev, se zaprošena pogodbenica po potrebi posvetuje s pogodbenico prosilko in ji omogoči, da predstavi svoja mnenja in da informacije, ki se nanašajo na njene navedbe.

17. Države pogodbenice si prizadevajo za sklenitev dvostranskih ali večstranskih sporazumov ali dogovorov, ki bi omogočili izvedbo izročitev ali povečali njihovo učinkovitost.

17. člen

Premestitev obsojencev

Države pogodbenice lahko preučijo možnost za sklenitev dvostranskih ali večstranskih sporazumov ali dogovorov o premestitvi oseb, obsojenih na zaporno kazen, ali druge oblike odvzema prostosti za kazniva dejanja po tej konvenciji, na svoje ozemlje, da tam prestanejo svoje kazni.

18. člen

Medsebojna pravna pomoč

1. Države pogodbenice si v največji meri zagotavljajo medsebojno pravno pomoč pri preiskavah, kazenskem pregonu in sodnih postopkih zaradi kaznivih dejanj po tej konvenciji, kot jih določa 3. člen, in si vzajemno pomagajo, kadar pogodbenica prosilka utemeljeno domneva, da je kaznivo dejanje iz pododstavka a ali b prvega odstavka 3. člena mednarodne narave, in so žrtve, priče, premoženjska korist, pridobljena s kaznivim dejanjem, predmeti ali dokazi za taka kazniva dejanja v zaprošeni pogodbenici in je v kaznivo dejanje vpletena organizirana kriminalna združba.

2. Medsebojna pravna pomoč se zagotavlja v največjem mogočem obsegu po ustreznih zakonih, pogodbah, sporazumih in dogovorih zaprošene pogodbenice glede preiskav, kazenskega pregona in sodnih postopkov za kazniva dejanja, za katera so lahko v skladu z 10. členom te konvencije v pogodbenici prosilki odgovorne pravne osebe.

3. Za medsebojno pravno pomoč po tem členu se lahko zaprosi za kateri koli naslednji namen:

(a) zbiranje dokazov ali izjav oseb;

(b) vročitev sodnih dokumentov;

(c) preiskava, zaseg ali zamrznitev;

(d) ogled;

(e) zagotavljanje informacij, dokaznega gradiva in izvedenskih mnenj;

(f) zagotavljanje izvirnikov ali overjene kopije ustrezne dokumentacije, vključno z vladnimi, bančnimi, finančnimi, korporacijskimi ali poslovnimi dokumenti;

(g) identifikacija ali odkrivanje premoženjske koristi, pridobljene s kaznivim dejanjem, premoženja, predmetov ali drugih dokazov;

(h) prostovoljna navzočnost oseb v pogodbenici prosilki;

(i) kakršna koli druga vrsta pomoči, ki ni v nasprotju z notranjim pravom zaprošene pogodbenice.

4. Ne glede na notranje pravo lahko pristojni organi države pogodbenice brez predhodne prošnje dajejo informacije o kazenskih zadevah pristojnemu organu druge države pogodbenice, kadar menijo, da bi lahko pomagale pri izvajanju ali uspešnem dokončanju preiskav in kazenskih postopkov ali bi ta država pogodbenica na njihovi podlagi lahko sestavila zaprosilo skladno s to konvencijo.

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party.

If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.

7. Paragraphs 9 to 29 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty of mutual legal assistance. If those States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 9 to 29 of this article in lieu thereof. States Parties are strongly encouraged to apply these paragraphs if they facilitate cooperation.

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

9. States Parties may decline to render mutual legal assistance pursuant to this article on the ground of absence of dual criminality. However, the requested State Party may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute an offence under the domestic law of the requested State Party.

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent;

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

11. For the purposes of paragraph 10 of this article:

(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;

(b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;

(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

5. Pošiljanje informacij po četrtem odstavku tega člena ne posega v preiskave in kazenske postopke v državi, v kateri so pristojni organi, ki priskrbijo informacije. Pristojni organi, ki prejmejo informacije, morajo upoštevati zahtevo po zaupnosti informacij, tudi če je začasna, ali po omejitvah njihove uporabe. To pa državi pogodbenici, ki je informacije prejela, ne preprečuje, da v sodnem postopku razkrije razbremenilne informacije za obtoženca. V takem primeru država prejemnica pred razkritjem o tem obvesti državo pošiljateljico in se z njo posvetuje, če to zahteva. Če v izjemnem primeru ni mogoče predhodno obvestilo, mora država prejemnica brez odlašanja obvestiti državo pošiljateljico o razkritju informacij.

6. Določbe tega člena ne vplivajo na obveznosti po drugih dvo- ali večstranskih pogodbah, ki v celoti ali delno urejajo ali bodo urejale medsebojno pravno pomoč.

7. Deveti do devetindvajseti odstavek tega člena se uporabljajo za zaprosila, izdana po tem členu, če državi pogodbenici ne zavezuje pogodba o medsebojni pravni pomoči. Če te države pogodbenice zavezuje pogodba, se uporabljajo njene ustrezne določbe, razen če se države pogodbenice ne dogovorijo, da se namesto njih uporabljajo deveti do devetindvajseti odstavek tega člena. Državam pogodbenicam se priporoča, da uporabljajo te odstavke, če se s tem olajša njihovo sodelovanje.

8. Države pogodbenice ne zavrnejo medsebojne pravne pomoči po tem členu zaradi bančne tajnosti.

9. Države pogodbenice lahko zavrnejo medsebojno pravno pomoč po tem členu, če ni identitete norme. Vendar pa lahko zaprošena pogodbenica, če se ji to zdi primerno, zagotovi pomoč v obsegu po lastni presoji, ne glede na to, ali bi bilo ravnanje kaznivo dejanje po notranjem pravu zaprošene pogodbenice.

10. Oseba, ki je pridržana ali prestaja kazen na ozemlju ene države pogodbenice in katere navzočnost se zahteva v drugi državi pogodbenici zaradi prepoznave, pričanja ali kakšne druge oblike pomoči pri pridobivanju dokazov za preiskavo, kazenski pregon ali sodne postopke v zvezi s kaznivimi dejanji po tej konvenciji, se lahko premesti, če sta izpolnjena dva pogoja:

(a) oseba je s tem seznanjena in prostovoljno pristane;

(b) pristojni organi obeh držav pogodbenic se s tem strinjajo pod pogoji, ki ustrezajo državama pogodbenicama.

11. Za namene desetega odstavka tega člena:

(a) ima država pogodbenica, v katero je oseba premeščena, pravico in dolžnost, da premeščeno osebo zadrži v priporu, razen če država pogodbenica, iz katere je bila oseba premeščena, ne zahteva ali odobri drugače;

(b) država pogodbenica, v katero je oseba premeščena, nemudoma izpolni svojo obveznost, da vrne osebo v pripor države pogodbenice, iz katere je bila oseba premeščena, kot so se predhodno ali drugače dogovorili pristojni organi obeh držav pogodbenic;

(c) država pogodbenica, v katero je oseba premeščena, ne zahteva od države pogodbenice, iz katere je bila oseba premeščena, da začne postopek za izročitev zaradi vrnitve te osebe;

(d) premeščeni osebi se čas, prebit v zaporu države pogodbenice, v katero je bila premeščena, všteje v kazen, ki jo prestaja v državi, iz katere je bila premeščena.

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.

15. A request for mutual legal assistance shall contain:

(a) The identity of the authority making the request;

(b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;

(c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;

(d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;

(e) Where possible, the identity, location and nationality of any person concerned; and

(f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

12. Oseba, ki je premeščena po desetem ali enajstem odstavku tega člena, se na ozemlju države, v katero je premeščena, ne glede na svoje državljanstvo kazensko ne preganja, pridrži, kaznuje ali se ji na kakršen koli drug način omeji prostost zaradi dejanj, opustitev ali obsodb pred njenim odhodom z ozemlja države, iz katere je bila premeščena, razen če se s tem strinja.

13. Vsaka država pogodbenica določi osrednji organ, odgovoren in pooblaščen za sprejem zaprosil za medsebojno pravno pomoč in njihovo izvedbo ali pošiljanje pristojnim organom v izvedbo. Če je v državi pogodbenici posebna regija ali ozemlje z drugačnim sistemom medsebojne pravne pomoči, lahko ta država pogodbenica imenuje poseben osrednji organ, ki ima enako vlogo za tisto regijo ali ozemlje. Osrednji organ zagotavlja hitro in pravilno izvajanje ali pošiljanje prejetih zaprosil. Če osrednji organ pošilja zaprosila v izvedbo pristojnemu organu, ga spodbuja, da hitro in pravilno izvede zaprosilo. Ob deponiranju listine o ratifikaciji, sprejetju ali odobritvi konvencije ali pristopu k njej vse države pogodbenice obvestijo generalnega sekretarja Združenih narodov o osrednjem organu, določenem v ta namen. Zaprosila za medsebojno pravno pomoč in vsa z njimi povezana sporočila se pošiljajo osrednjemu organu, ki ga določijo države pogodbenice. To ne posega v pravico države pogodbenice, da zahteva, da se ji taka zaprosila in sporočila pošiljajo po diplomatski poti, v nujnih okoliščinah, če se države pogodbenice s tem strinjajo, pa po možnosti prek Mednarodne organizacije kriminalistične policije.

14. Zaprosila so pisna, ali če je mogoče, sestavljena na kateri koli način, ki omogoča zapis, v jeziku, ki je sprejemljiv za zaprošeno pogodbenico, pod pogoji, ki omogočajo, da ugotovi verodostojnost zaprosila. Generalni sekretar Združenih narodov mora biti obveščen o jeziku ali jezikih, sprejemljivih za vsako državo pogodbenico ob deponiranju listine o ratifikaciji, sprejetju, odobritvi konvencije ali pristopu k njej. Če je to nujno in če se države pogodbenice tako dogovorijo, so zaprosila lahko ustna, vendar jih je treba nemudoma pisno potrditi.

15. Zaprosilo za medsebojno pravno pomoč mora vsebovati:

(a) ime in naslov organa, ki vlaga zaprosilo;

(b) predmet in vrsto preiskave, kazenskega pregona ali sodnega postopka, na katerega se zaprosilo nanaša, ter ime in funkcijo organa, ki vodi preiskavo, kazenski pregon ali sodni postopek;

(c) povzetek pomembnih dejstev, razen pri zaprosilih, katerih namen je vročitev sodnih dokumentov;

(d) opis zaprošene pomoči in podrobnosti vsakega posameznega postopka, za katerega pogodbenica prosilka želi, da bi se izvedel;

(e) če je to mogoče, identiteto, kraj bivanja in državljanstvo vseh zadevnih oseb;

(f) namen, za katerega se prosijo dokazi, informacije ali ukrepi.

16. Zaprošena pogodbenica lahko prosi za dodatne informacije, če se zdi, da je to potrebno zaradi izvedbe zaprosila v skladu z njenim notranjim pravom ali če to lahko olajša njegovo izvedbo.

17. Zaprosilo se izvede skladno z notranjim pravom zaprošene pogodbenice in postopki, navedenimi v zaprosilu, če to ni v nasprotju z notranjim pravom zaprošene pogodbenice in če je mogoče.

18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

21. Mutual legal assistance may be refused:

(a) If the request is not made in conformity with the provisions of this article;

(b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests;

(c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

23. Reasons shall be given for any refusal of mutual legal assistance.

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requested State Party shall respond to reasonable requests by the requesting State Party on progress of its handling of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

18. Država pogodbenica lahko, če je to mogoče in je skladno s temeljnimi načeli njenega notranjega prava, na zaprosilo druge države pogodbenice dovoli, da sodni organi te države pogodbenice z videokonferenco zaslišijo pričo ali izvedenca, ki je na njenem ozemlju, če osebna navzočnost zaslišanega na ozemlju pogodbenice prosilke ni mogoča ali zaželena. Države pogodbenice se lahko dogovorijo, da zaslišanje vodi sodni organ pogodbenice prosilke ob navzočnosti sodnega organa zaprošene pogodbenice.

19. Pogodbenica prosilka brez predhodnega soglasja zaprošene pogodbenice ne sme poslati ali uporabiti informacij ali dokazov, ki jih je priskrbela zaprošena pogodbenica, za tiste preiskave, kazenski pregon ali sodne postopke, ki niso navedeni v zaprosilu. Nobena določba tega odstavka ne preprečuje pogodbenici prosilki, da v svojem sodnem postopku ne razkrije informacij ali dokazov, razbremenilnih za obtoženca. V tem primeru pogodbenica prosilka o tem obvesti zaprošeno pogodbenico še pred razkritjem in se, če je tako zahtevano, tudi posvetuje z njo. Če izjemoma predhodno obvestilo ni mogoče, pogodbenica prosilka o razkritju nemudoma obvesti zaprošeno pogodbenico.

20. Pogodbenica prosilka lahko zahteva, da zaprošena pogodbenica obstoj in vsebino zaprosila ohrani v tajnosti, razen če to ni potrebno za njegovo izvedbo. Če zaprošena pogodbenica ne more izpolniti tega pogoja, o tem takoj obvesti pogodbenico prosilko.

21. Medsebojna pravna pomoč se lahko zavrne:

(a) če zaprosilo ni sestavljeno v skladu z določbami tega člena;

(b) če zaprošena pogodbenica presodi, da bi izvedba zaprosila lahko ogrozila njeno suverenost, varnost, javni red ali druge bistvene interese;

(c) če notranje pravo zaprošene pogodbenice njenim organom ne bi dopuščalo izvedbe zaprošenih ukrepov pri podobnem kaznivemu dejanju, katerega preiskava, kazenski pregon ali sodni postopek bi bil v njeni sodni pristojnosti;

(d) če bi bila ugoditev zaprosilu v nasprotju s pravnim redom zaprošene pogodbenice.

22. Države pogodbenice ne smejo zavrniti zaprosila za medsebojno pravno pomoč zato, ker se šteje, da gre za kaznivo dejanje v zvezi z davki.

23. Vsako zavrnitev medsebojne pravne pomoči je treba obrazložiti.

24. Zaprošena pogodbenica čim prej izvede zaprosilo za medsebojno pravno pomoč in kolikor mogoče upošteva vse roke, ki jih predlaga pogodbenica prosilka in so po možnosti obrazloženi že v zaprosilu. Zaprošena pogodbenica odgovori pogodbenici prosilki na njene upravičene poizvedbe o napredku pri obravnavi njenega zaprosila. Pogodbenica prosilka mora takoj obvestiti zaprošeno pogodbenico, če zaprošena pomoč ni več potrebna.

25. Zaprošena pogodbenica lahko odloži izvedbo zaprosila za medsebojno pravno pomoč, če ovira potek preiskave, kazenskega pregona ali sodnega postopka.

26. Zaprošena pogodbenica se, preden zavrne zaprosilo po enaindvajsetem odstavku tega člena ali odloži njegovo izvedbo po petindvajsetem odstavku tega člena, posvetuje s pogodbenico prosilko, da se ugotovi, ali lahko zagotovi pomoč pod pogoji, ki jih šteje za potrebne. Če pogodbenica prosilka sprejme pomoč pod temi pogoji, jih mora upoštevati.

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

29. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.

Article 19

Joint investigations

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

Article 20

Special investigative techniques

1. If permitted by the basic principles of its domestic legal system, each State Party shall, within its possibilities and under the conditions prescribed by its domestic law, take the necessary measures to allow for the appropriate use of controlled delivery and, where it deems appropriate, for the use of other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, by its competent authorities in its territory for the purpose of effectively combating organized crime.

27. Ne glede na dvanajsti odstavek tega člena se priča, izvedenec ali druga oseba, ki na prošnjo pogodbenice prosilke soglaša s pričanjem v sodnem postopku ali s pomočjo pri preiskavi, kazenskem pregonu ali sodnem postopku na ozemlju pogodbenice prosilke, kazensko ne preganja, pridrži, kaznuje ali se ji na kakršen koli drug način omeji prostost na tem ozemlju za dejanja, opustitve ali obsodbe pred odhodom z ozemlja zaprošene pogodbenice. Ta zaščita preneha, če priča, izvedenec ali druga oseba po poteku 15 zaporednih dni ali kakršnem koli drugem obdobju, za katero sta se državi pogodbenici dogovorili, od dne, ko je bila uradno obveščena, da njena navzočnost, ki so jo zahtevali sodni organi, ni več potrebna in je imela možnost, da odide z ozemlja te države, kljub temu prostovoljno ostane na ozemlju pogodbenice prosilke ali se je nanj prostovoljno vrnila, ko ga je že zapustila.

28. Redne stroške za izvedbo zaprosil krije zaprošena pogodbenica, če se državi pogodbenici ne dogovorita drugače. Če izvedba zaprosila zahteva velike ali izredne stroške, se državi pogodbenici posvetujeta, da določita pogoje, po katerih se bo zaprosilo izvedlo, in kako se bodo krili stroški.

29. Zaprošena pogodbenica:

(a) pogodbenici prosilki priskrbi izvode vladne dokumentacije ali informacij, s katerimi razpolaga in so po notranjem pravu dostopne javnosti;

(b) lahko po svoji presoji pogodbenici prosilki priskrbi v celoti, deloma ali pod pogoji, ki se ji zdijo ustrezni, izvode kakršne koli vladne dokumentacije ali informacij, s katerimi razpolaga in ki po notranjem pravu niso dostopne javnosti.

30. Države pogodbenice po potrebi preučijo možnost sklepanja dvo- ali večstranskih sporazumov ali dogovorov, namenjenih boljšemu izvajanju določb tega člena.

19. člen

Skupne preiskave

Države pogodbenice preučijo možnost sklepanja dvo- ali večstranskih sporazumov ali dogovorov, s katerimi pristojni organi ustanovijo skupne preiskovalne organe za zadeve, o katerih tečejo preiskave, kazenski pregon ali sodni postopki v eni ali več državah. Če takih sporazumov ali dogovorov ne sklenejo, lahko skupne preiskave potekajo po dogovoru za vsak posamezen primer. Države pogodbenice, ki jih to zadeva, zagotovijo, da se v celoti spoštuje suverenost države pogodbenice, na ozemlju katere naj bi preiskava potekala.

20. člen

Posebne preiskovalne metode

1. Vsaka država pogodbenica po svojih možnostih in pod pogoji, predpisanimi z njenim notranjim pravom, in če to dopuščajo temeljna načela njenega pravnega reda, sprejme potrebne ukrepe, da svojim pristojnim organom omogoči, da zaradi učinkovitega boja proti organiziranemu kriminalu uporabijo nadzorovano pošiljko, in če se ji zdi primerno, tudi druge posebne preiskovalne ukrepe, kot so elektronske in druge oblike nadzora ter tajne operacije.

2. For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

4. Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods to continue intact or be removed or replaced in whole or in part.

Article 21

Transfer of criminal proceedings

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence covered by this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

Article 22

Establishment of criminal record

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence covered by this Convention.

Article 23

Criminalization of obstruction of justice

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences covered by this Convention;

(b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences covered by this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public officials.

Article 24

Protection of witnesses

1. Each State Party shall take appropriate measures within its means to provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by this Convention and, as appropriate, for their relatives and other persons close to them.

2. Državam pogodbenicam se priporoča, da za sodelovanje na mednarodni ravni po potrebi sklenejo ustrezne dvo- ali večstranske sporazume ali dogovore o uporabi posebnih preiskovalnih metod zaradi preiskav kaznivih dejanj po tej konvenciji. Taki sporazumi ali dogovori se sklepajo in izvajajo po načelu suverene enakosti držav ter se izvajajo izključno po določbah teh sporazumov ali dogovorov.

3. Če ni sporazumov ali dogovorov iz drugega odstavka tega člena, se o uporabi posebnih preiskovalnih metod na mednarodni ravni odloča za vsak posamezen primer posebej in po potrebi upoštevajo finančni sporazumi in dogovori glede izvajanja sodne pristojnosti držav pogodbenic.

4. Odločitve o uporabi nadzorovane pošiljke na mednarodni ravni lahko s soglasjem udeleženih držav pogodbenic vključujejo metode, kot sta prestrezanje pošiljke in dovoljenje, da nadaljuje pot nedotaknjena ali se njena vsebina odstrani ali v celoti ali delno zamenja.

21. člen

Prenos kazenskih postopkov

Države pogodbenice preučijo možnost prenosa kazenskih postopkov iz ene države v drugo zaradi kazenskega pregona kaznivih dejanj po tej konvenciji z namenom združitve pregona, kadar je tak prenos v interesu učinkovitega delovanja sodstva, posebno če je pristojnih več pogodbenic.

22. člen

Vzpostavitev kazenske evidence

Vsaka država pogodbenica lahko sprejme zakonodajne ali druge potrebne ukrepe pod pogoji in za namen, ki se ji zdi primeren, da upošteva vse prejšnje obsodbe domnevnega storilca v drugi državi, da te informacije uporabi v kazenskem postopku glede kaznivega dejanja po tej konvenciji.

23. člen

Kaznivost oviranja pravosodja

Vsaka država pogodbenica sprejme zakonodajne in druge ukrepe, potrebne, da kot kazniva določi dejanja, kadar so storjena naklepno:

(a) uporaba fizične sile, groženj ali zastraševanja ali obljub, ponudb ali dajanja neupravičenih ugodnosti, katerih namen je spodbuditi lažno pričanje ali preprečiti pričanje ali izvedbo dokazov v kazenskem postopku za kazniva dejanja po tej konvenciji;

(b) uporaba fizične sile, groženj ali zastraševanja, katerega namen je vplivati na uradne osebe v sodstvu ali organih odkrivanja in pregona pri opravljanju njihovih uradnih dolžnosti za kazniva dejanja po tej konvenciji. Nobena določba iz tega pododstavka ne posega v pravico držav pogodbenic, da s svojo zakonodajo zaščitijo tudi druge kategorije javnih uslužbencev.

24. člen

Zaščita prič

1. Država pogodbenica v skladu s svojimi možnostmi sprejme ustrezne ukrepe za zagotovitev učinkovite zaščite prič v kazenskih postopkih pred morebitnim maščevanjem ali zastraševanjem, ker pričajo o kaznivih dejanjih po tej konvenciji, kakor tudi njihovih sorodnikov in drugih bližnjih oseb, če presodi, da je to potrebno.

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

(b) Providing evidentiary rules to permit witness testimony to be given in a manner that ensures the safety of the witness, such as permitting testimony to be given through the use of communications technology such as video links or other adequate means.

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.

4. The provisions of this article shall also apply to victims insofar as they are witnesses.

Article 25

Assistance to and protection of victims

1. Each State Party shall take appropriate measures within its means to provide assistance and protection to victims of offences covered by this Convention, in particular in cases of threat of retaliation or intimidation.

2. Each State Party shall establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by this Convention.

3. Each State Party shall, subject to its domestic law, enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

Article 26

Measures to enhance cooperation with law enforcement authorities

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in organized criminal groups:

(a) To supply information useful to competent authorities for investigative and evidentiary purposes on such matters as:

(i) The identity, nature, composition, structure, location or activities of organized criminal groups;

(ii) Links, including international links, with other organized criminal groups;

(iii) Offences that organized criminal groups have committed or may commit;

(b) To provide factual, concrete help to competent authorities that may contribute to depriving organized criminal groups of their resources or of the proceeds of crime.

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention.

3. Each State Party shall consider providing for the possibility, in accordance with fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention.

4. Protection of such persons shall be as provided for in article 24 of this Convention.

2. Ukrepi, predvideni v prvem odstavku tega člena, lahko med drugim, ne da bi to posegalo v pravice obdolženca, vključno s pravico do postopka, skladnega s pravili, vključujejo:

(a) uvedbo postopkov za fizično zaščito takih oseb v potrebnem in uresničljivem obsegu, kot je na primer preselitev, in po potrebi omogočanje osebi, da ne razkrije informacij, ki zadevajo njeno istovetnost in bivališče, ali jih samo delno razkrije;

(b) vzpostavitev dokaznih pravil, ki priči omogočajo, da da svojo izjavo tako, da to zagotavlja njeno varnost, npr. pričanje z uporabo komunikacijske tehnologije, kot so videopovezave ali druga ustrezna sredstva.

3. Države pogodbenice preučijo možnost sklenitve sporazumov ali dogovorov z drugimi državami za preselitev oseb iz prvega odstavka tega člena.

4. Določbe tega člena se uporabljajo tudi za oškodovance, če nastopajo kot priče.

25. člen

Pomoč žrtvam in njihova zaščita

1. Država pogodbenica v okviru svojih možnosti sprejme ustrezne ukrepe, da zagotovi pomoč in zaščito žrtvam kaznivih dejanj po tej konvenciji, predvsem pri grožnjah z maščevanjem ali zastraševanju.

2. Država pogodbenica določi ustrezne postopke, ki žrtvam kaznivih dejanj iz te konvencije omogočajo nadomestilo in povračilo.

3. Država pogodbenica skladno s svojim notranjim pravom omogoči, da se predstavijo in obravnavajo mnenja in skrbi žrtev na ustreznih stopnjah kazenskega postopka proti storilcem tako, da to ne posega v pravice obrambe.

26. člen

Ukrepi za krepitev sodelovanja z organi kazenskega pregona

1. Država pogodbenica sprejme ustrezne ukrepe, da spodbudi osebe, ki sodelujejo ali so sodelovale v organiziranih kriminalnih združbah:

(a) da dajo koristne informacije pristojnim organom v preiskovalne in dokazne namene o zadevah, kot so:

(i) identiteta, narava, sestava, struktura, lokacija ali dejavnosti organiziranih kriminalnih združb;

(ii) povezave, tudi mednarodne, z drugimi organiziranimi kriminalnimi združbami;

(iii) kazniva dejanja, ki so jih storile ali jih lahko storijo organizirane kriminalne združbe;

(b) da zagotovijo dejansko, konkretno pomoč pristojnim organom, ki lahko prispeva k odvzemu sredstev ali premoženjske koristi, pridobljene s kaznivim dejanjem, organiziranih kriminalnih združb.

2. Država pogodbenica preuči možnost, da se v ustreznih primerih obtožencu, ki je precej pomagal v preiskavi ali kazenskem pregonu za kaznivo dejanje po tej konvenciji, omili kazen.

3. Država pogodbenica preuči možnost, da v skladu s temeljnimi načeli svojega notranjega prava podeli imuniteto pred kazenskim pregonom osebi, ki je precej pomagala v preiskavi ali kazenskem pregonu za kaznivo dejanje po tej konvenciji.

4. Te osebe se zaščitijo skladno s 24. členom te konvencije.

5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

Article 27

Law enforcement cooperation

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. Each State Party shall, in particular, adopt effective measures:

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

(c) To provide, when appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(d) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;

(e) To exchange information with other States Parties on specific means and methods used by organized criminal groups, including, where applicable, routes and conveyances and the use of false identities, altered or false documents or other means of concealing their activities;

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the Parties may consider this Convention as the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

3. States Parties shall endeavour to cooperate within their means to respond to transnational organized crime committed through the use of modern technology.

5. Če je oseba iz prvega odstavka tega člena v eni državi pogodbenici in lahko precej pomaga pristojnim organom druge države pogodbenice, lahko ti državi pogodbenici preučita možnost, da v skladu s svojim notranjim pravom skleneta sporazume ali dogovore glede možnosti, da druga država pogodbenica zagotovi ravnanje, določeno v drugem in tretjem odstavku tega člena.

27. člen

Sodelovanje pri kazenskem pregonu

1. Države pogodbenice skladno s svojimi notranjimi pravnimi in upravnimi ureditvami tesno sodelujejo, da bi povečale učinkovitost kazenskega pregona v boju proti kaznivim dejanjem po tej konvenciji. Vsaka država pogodbenica predvsem sprejme učinkovite ukrepe:

(a) za pospešitev, in kadar je to potrebno, vzpostavitev komunikacijskih poti med svojimi pristojnimi organi, agencijami in službami, da bi s tem olajšala varno in hitro izmenjavo informacij v zvezi z vsemi vidiki kaznivih dejanj po tej konvenciji, vključno s povezavo z drugimi kriminalnimi dejavnostmi, če države pogodbenice menijo, da je to ustrezno.

(b) za sodelovanje z drugimi državami pogodbenicami pri poizvedovanjih o kaznivih dejanjih po tej konvenciji, ki se nanašajo na:

(i) istovetnost, bivališče in dejavnost oseb, osumljenih, da so vpletene v ta kazniva dejanja, ali kraj bivanja drugih vpletenih oseb;

(ii) gibanje premoženjske koristi, pridobljene s kaznivim dejanjem, ali premoženja, ki izvira iz storitve kaznivega dejanja;

(iii) gibanje premoženja, opreme ali drugih predmetov, uporabljenih ali namenjenih za storitev takih kaznivih dejanj;

(c) za zagotovitev, če je to primerno, potrebnih predmetov ali količin snovi za analitične ali preiskovalne namene;

(d) za olajšanje učinkovitega sodelovanja med njihovimi pristojnimi organi, agencijami, službami in pospeševanje izmenjave osebja in drugih izvedencev, vključno z napotitvijo oseb za zvezo po dvostranskih sporazumih ali dogovorih med državami pogodbenicami;

(e) za izmenjavo podatkov z drugimi državami pogodbenicami o posebnih metodah in sredstvih, ki jih uporabljajo organizirane kriminalne združbe, in če je to primerno, tudi o poteh in prevoznih sredstvih ter o uporabi lažne identitete, prirejenih ali ponarejenih dokumentih ali drugih sredstvih za prikrivanje njihovih dejavnosti;

(f) za izmenjavo podatkov in usklajevanje upravnih in drugih ustreznih ukrepov za hitro odkrivanje kaznivih dejanj po tej konvenciji.

2. Za uresničevanje te konvencije države pogodbenice preučijo možnost za sklenitev dvo- ali večstranskih sporazumov ali dogovorov o neposrednem sodelovanju med organi kazenskega pregona, če ti že obstajajo, pa za njihovo spremembo. Če takih sporazumov ali dogovorov med državami pogodbenicami ni, lahko štejejo to konvencijo kot podlago za medsebojno sodelovanje pri kazenskem pregonu za kazniva dejanja po tej konvenciji. Kadar je primerno, države pogodbenice v celoti uporabijo sporazume ali dogovore, tudi z mednarodnimi ali regionalnimi organizacijami, da okrepijo sodelovanje med svojimi organi kazenskega pregona.

3. Države pogodbenice si po svojih možnostih prizadevajo sodelovati v boju proti mednarodnemu organiziranemu kriminalu, pri katerem se uporablja sodobna tehnologija.

Article 28

Collection, exchange and analysis of information on the nature of organized crime

1. Each State Party shall consider analysing, in consultation with the scientific and academic communities, trends in organized crime in its territory, the circumstances in which organized crime operates, as well as the professional groups and technologies involved.

2. States Parties shall consider developing and sharing analytical expertise concerning organized criminal activities with each other and through international and regional organizations. For that purpose, common definitions, standards and methodologies should be developed and applied as appropriate.

3. Each State Party shall consider monitoring its policies and actual measures to combat organized crime and making assessments of their effectiveness and efficiency.

28. člen

Zbiranje, izmenjava in analiza informacij o naravi organiziranega kriminala

1. Vsaka država pogodbenica v posvetovanju z znanstvenimi in akademskimi krogi analizira trende organiziranega kriminala na svojem ozemlju, okoliščine, v katerih organizirani kriminal deluje, in tudi vpletene profesionalne skupine in uporabljene tehnologije.

2. Države pogodbenice preučijo možnosti za razvoj in izmenjavo analitičnega strokovnega znanja o dejavnostih organiziranega kriminala med seboj in z mednarodnimi in regionalnimi organizacijami. V ta namen naj bi razvile in po potrebi uporabljale skupne definicije, standarde in metodologije.

3. Vsaka država pogodbenica preuči možnosti za spremljanje svojih usmeritev in dejanskih ukrepov za boj proti organiziranemu kriminalu ter oceni njihovo uspešnost in učinkovitost.

Article 29

Training and technical assistance

1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its law enforcement personnel, including prosecutors, investigating magistrates and customs personnel, and other personnel charged with the prevention, detection and control of the offences covered by this Convention. Such programmes may include secondments and exchanges of staff. Such programmes shall deal, in particular and to the extent permitted by domestic law, with the following:

(a) Methods used in the prevention, detection and control of the offences covered by this Convention;

(b) Routes and techniques used by persons suspected of involvement in offences covered by this Convention, including in transit States, and appropriate countermeasures;

(c) Monitoring of the movement of contraband;

(d) Detection and monitoring of the movements of proceeds of crime, property, equipment or other instrumentalities and methods used for the transfer, concealment or disguise of such proceeds, property, equipment or other instrumentalities, as well as methods used in combating money-laundering and other financial crimes;

(e) Collection of evidence;

(f) Control techniques in free trade zones and free ports;

(g) Modern law enforcement equipment and techniques, including electronic surveillance, controlled deliveries and undercover operations;

(h) Methods used in combating transnational organized crime committed through the use of computers, telecommunications networks or other forms of modern technology; and

(i) Methods used in the protection of victims and witnesses.

2. States Parties shall assist one another in planning and implementing research and training programmes designed to share expertise in the areas referred to in paragraph 1 of this article and to that end shall also, when appropriate, use regional and international conferences and seminars to promote cooperation and to stimulate discussion on problems of mutual concern, including the special problems and needs of transit States.

3. States Parties shall promote training and technical assistance that will facilitate extradition and mutual legal assistance. Such training and technical assistance may include language training, secondments and exchanges between personnel in central authorities or agencies with relevant responsibilities.

29. člen

Usposabljanje in strokovna pomoč

1. Vsaka država pogodbenica, če je to potrebno, uvede, razvije ali izboljša posebne programe usposabljanja za zaposlene v organih kazenskega pregona, vključno s tožilci, preiskovalnimi sodniki in cariniki ter drugimi odgovornimi za preprečevanje, odkrivanje in nadzorovanje kaznivih dejanj po tej konvenciji. Taki programi lahko vsebujejo tudi napotitve in izmenjavo osebja. Ti programi posebej, in če to dopušča notranje pravo, obravnavajo:

(a) metode, uporabljene za preprečevanje, odkrivanje in nadzorovanje kaznivih dejanj po tej konvenciji;

(b) poti in metode, ki jih tudi v tranzitnih državah uporabljajo osebe, osumljene sodelovanja pri kaznivih dejanjih po tej konvenciji, ter ustrezne protiukrepe;

(c) nadzorovanje tihotapstva;

(d) odkrivanje in nadziranje gibanja premoženjske koristi, pridobljene s kaznivim dejanjem, premoženja, opreme in drugih predmetov ter metod, ki se uporabljajo za prenos ali prikrivanje takih koristi, premoženja, opreme ali drugih predmetov kakor tudi metode za boj proti pranju denarja in drugemu finančnemu kriminalu;

(e) zbiranje dokazov;

(f) metode nadzora v prostotrgovinskih conah in brezcarinskih pristaniščih;

(g) sodobno opremo in metode v kazenskem pregonu, vključno z elektronskim nadzorom, nadzorovanimi pošiljkami in tajnimi operacijami;

(h) metode za boj proti mednarodnemu organiziranemu kriminalu, pri katerem se uporabljajo računalniki, telekomunikacijska omrežja ali druge oblike sodobne tehnologije;

(i) metode, ki se uporabljajo za zaščito žrtev in prič.

2. Države pogodbenice si pomagajo pri načrtovanju in izvajanju raziskovalnih programov in programov usposabljanja za izmenjavo strokovnega znanja s področij iz prvega odstavka tega člena, in če je to primerno, organizirajo regionalne in mednarodne konference in seminarje, da pospešijo sodelovanje in spodbudijo razpravo o skupnih problemih, vključno s posebnimi problemi in potrebami tranzitnih držav.

3. Države pogodbenice pospešujejo usposabljanje in strokovno pomoč, ki olajšuje izročitve in medsebojno pravno pomoč. Tako usposabljanje in strokovna pomoč lahko vključujeta jezikovno usposabljanje, napotitve osebja in njegovo izmenjavo med osrednjimi organi ali agencijami z ustreznimi pristojnostmi.

4. In the case of existing bilateral and multilateral agreements or arrangements, States Parties shall strengthen, to the extent necessary, efforts to maximize operational and training activities within international and regional organizations and within other relevant bilateral and multilateral agreements or arrangements.

Article 30

Other measures: implementation of the Convention through economic development and technical assistance

1. States Parties shall take measures conducive to the optimal implementation of this Convention to the extent possible, through international cooperation, taking into account the negative effects of organized crime on society in general, in particular on sustainable development.

2. States Parties shall make concrete efforts to the extent possible and in coordination with each other, as well as with international and regional organizations:

(a) To enhance their cooperation at various levels with developing countries, with a view to strengthening the capacity of the latter to prevent and combat transnational organized crime;

(b) To enhance financial and material assistance to support the efforts of developing countries to fight transnational organized crime effectively and to help them implement this Convention successfully;

(c) To provide technical assistance to developing countries and countries with economies in transition to assist them in meeting their needs for the implementation of this Convention. To that end, States Parties shall endeavour to make adequate and regular voluntary contributions to an account specifically designated for that purpose in a United Nations funding mechanism. States Parties may also give special consideration, in accordance with their domestic law and the provisions of this Convention, to contributing to the aforementioned account a percentage of the money or of the corresponding value of proceeds of crime or property confiscated in accordance with the provisions of this Convention;

(d) To encourage and persuade other States and financial institutions as appropriate to join them in efforts in accordance with this article, in particular by providing more training programmes and modern equipment to developing countries in order to assist them in achieving the objectives of this Convention.

3. To the extent possible, these measures shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international level.

4. States Parties may conclude bilateral or multilateral agreements or arrangements on material and logistical assistance, taking into consideration the financial arrangements necessary for the means of international cooperation provided for by this Convention to be effective and for the prevention, detection and control of transnational organized crime.

Article 31

Prevention

1. States Parties shall endeavour to develop and evaluate national projects and to establish and promote best practices and policies aimed at the prevention of transnational organized crime.

2. States Parties shall endeavour, in accordance with fundamental principles of their domestic law, to reduce existing or future opportunities for organized criminal groups to participate in lawful markets with proceeds of crime, through appropriate legislative, administrative or other measures. These measures should focus on:

(a) The strengthening of cooperation between law enforcement agencies or prosecutors and relevant private entities, including industry;

4. Če že obstajajo dvo- ali večstranski sporazumi ali dogovori, države pogodbenice, kolikor je to potrebno, okrepijo prizadevanja, da bi čim bolj izboljšale dejavnosti operative in usposabljanja v mednarodnih in regionalnih organizacijah in v okviru drugih ustreznih dvo- in večstranskih sporazumov ali dogovorov.

30. člen

Drugi ukrepi: izvajanje konvencije z gospodarskim razvojem in strokovno pomočjo

1. Države pogodbenice sprejmejo ukrepe za kar najboljše izvajanje te konvencije z mednarodnim sodelovanjem ob upoštevanju negativnih vplivov organiziranega kriminala na družbo na splošno, predvsem pa na trajno uravnotežen razvoj.

2. Države pogodbenice si v mogočem obsegu in z medsebojnim usklajevanjem kakor tudi z usklajevanjem z mednarodnimi in regionalnimi organizacijami prizadevajo za:

(a) poglobitev sodelovanja z državami v razvoju na različnih ravneh, da bi okrepile sposobnost slednjih pri preprečevanju kriminala in v boju proti mednarodnemu organiziranemu kriminalu;

(b) okrepitev finančne in materialne pomoči državam v razvoju, da bi se učinkovito borile proti mednarodnemu organiziranemu kriminalu in bi uspešno izvajale to konvencijo;

(c) dajanje strokovne pomoči državam v razvoju in državam, katerih gospodarstva so v prehodu, da bi jim pomagale pri izvajanju te konvencije. Zato si države pogodbenice prizadevajo, da primerno in redno nakazujejo prostovoljne prispevke na posebej za to določen račun pri Združenih narodih. Države pogodbenice lahko tudi posebej preučijo možnost, da v skladu s svojim notranjim pravom in določbami te konvencije na omenjeni račun prispevajo del denarja, premoženjske koristi, pridobljene s kaznivim dejanjem, ali premoženja, odvzetega v skladu z določbami te konvencije;

(d) spodbujanje in prepričevanje drugih držav in finančnih ustanov, odvisno od primera, da se jim pridružijo v prizadevanjih v skladu s tem členom, posebno še z zagotavljanjem večjega števila programov usposabljanja in sodobne opreme državam v razvoju, da bi jim pomagale pri doseganju ciljev te konvencije.

3. Ti ukrepi kar najmanj posegajo v obstoječe obveznosti mednarodne pomoči ali druge dogovore o finančnem sodelovanju na dvostranski, regionalni ali mednarodni ravni.

4. Države pogodbenice lahko sklenejo dvo- ali večstranske sporazume ali dogovore o materialni in logistični pomoči ob upoštevanju finančnih dogovorov za učinkovitejše mednarodno sodelovanje po tej konvenciji in preprečevanje, odkrivanje in nadzorovanje mednarodnega organiziranega kriminala.

31. člen

Preprečevanje

1. Države pogodbenice si prizadevajo razvijati in vrednotiti svoje projekte in vzpostavljati in razvijati najučinkovitejše delovanje in usmeritve za preprečevanje mednarodnega organiziranega kriminala.

2. Države pogodbenice si prizadevajo, da skladno s temeljnimi načeli svojega notranjega prava z ustreznimi zakonodajnimi, upravnimi ali drugimi ukrepi zmanjšajo sedanje ali prihodnje možnosti organiziranih kriminalnih združb, da s premoženjsko koristjo, pridobljeno s kaznivimi dejanji, delujejo na zakonitih trgih. Ti ukrepi naj se osredotočijo na:

(a) krepitev sodelovanja med organi kazenskega pregona ali tožilci in ustreznimi zasebnimi subjekti, tudi gospodarskimi;

(b) The promotion of the development of standards and procedures designed to safeguard the integrity of public and relevant private entities, as well as codes of conduct for relevant professions, in particular lawyers, notaries public, tax consultants and accountants;

(c) The prevention of the misuse by organized criminal groups of tender procedures conducted by public authorities and of subsidies and licences granted by public authorities for commercial activity;

(d) The prevention of the misuse of legal persons by organized criminal groups; such measures could include:

(i) The establishment of public records on legal and natural persons involved in the establishment, management and funding of legal persons;

(ii) The introduction of the possibility of disqualifying by court order or any appropriate means for a reasonable period of time persons convicted of offences covered by this Convention from acting as directors of legal persons incorporated within their jurisdiction;

(iii) The establishment of national records of persons disqualified from acting as directors of legal persons; and

(iv) The exchange of information contained in the records referred to in subparagraphs (d) (i) and (iii) of this paragraph with the competent authorities of other States Parties.

3. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences covered by this Convention.

4. States Parties shall endeavour to evaluate periodically existing relevant legal instruments and administrative practices with a view to detecting their vulnerability to misuse by organized criminal groups.

5. States Parties shall endeavour to promote public awareness regarding the existence, causes and gravity of and the threat posed by transnational organized crime. Information may be disseminated where appropriate through the mass media and shall include measures to promote public participation in preventing and combating such crime.

6. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that can assist other States Parties in developing measures to prevent transnational organized crime.

7. States Parties shall, as appropriate, collaborate with each other and relevant international and regional organizations in promoting and developing the measures referred to in this article. This includes participation in international projects aimed at the prevention of transnational organized crime, for example by alleviating the circumstances that render socially marginalized groups vulnerable to the action of transnational organized crime.

Article 32

Conference of the Parties to the Convention

1. A Conference of the Parties to the Convention is hereby established to improve the capacity of States Parties to combat transnational organized crime and to promote and review the implementation of this Convention.

2. The Secretary-General of the United Nations shall convene the Conference of the Parties not later than one year following the entry into force of this Convention. The Conference of the Parties shall adopt rules of procedure and rules governing the activities set forth in paragraphs 3 and 4 of this article (including rules concerning payment of expenses incurred in carrying out those activities).

3. The Conference of the Parties shall agree upon mechanisms for achieving the objectives mentioned in paragraph 1 of this article, including:

(b) spodbujanje razvoja in standardov za zaščito integritete javnih in ustreznih zasebnih subjektov ter kodeksov ravnanja za ustrezne poklice, predvsem odvetnike, notarje, davčne svetovalce in računovodje;

(c) preprečevanje, da bi organizirane kriminalne združbe zlorabljale razpise, ki jih vodijo javni organi, subvencije in licence, ki jih podeljujejo javni organi;

(d) preprečevanje, da bi organizirane kriminalne združbe zlorabljale pravne osebe; ti ukrepi lahko vključujejo:

(i) vzpostavitev javnih evidenc pravnih in fizičnih oseb, ki sodelujejo pri ustanavljanju, vodenju in financiranju pravnih oseb;

(ii) uvedbo možnosti, da se za razumno obdobje obsojenim za kazniva dejanja po tej konvenciji s sodnim nalogom ali drugim ustreznim sredstvom prepove opravljanje vodstvenih nalog v pravnih osebah, ustanovljenih v njihovi pristojnosti;

(iii) vzpostavitev državnih evidenc oseb, ki jim je prepovedano opravljati vodstvene naloge v pravnih osebah;

(iv) izmenjavo podatkov iz evidenc iz točk i in iii pododstavka d tega odstavka s pristojnimi organi drugih držav.

3. Države pogodbenice si prizadevajo, da se osebe, obsojene za kazniva dejanja po tej konvenciji, ponovno vključijo v družbo.

4. Države pogodbenice si prizadevajo, da v rednih časovnih presledkih preučijo veljavne pravne instrumente in upravno prakso, da odkrijejo pomanjkljivosti, ki bi lahko omogočile, da jih zlorabljajo organizirane kriminalne združbe.

5. Države pogodbenice si prizadevajo za ozaveščanje javnosti o obstoju, vzrokih in nevarnostih mednarodnega organiziranega kriminala. Če je to primerno, se lahko informacije dajejo po medijih in vključujejo ukrepe za večje sodelovanje javnosti pri preprečevanju mednarodnega organiziranega kriminala in boju proti njemu.

6. Vsaka država pogodbenica generalnega sekretarja Združenih narodov obvesti o imenu in naslovu organa ali organov, ki lahko pomagajo drugim državam pogodbenicam pri pripravi ukrepov za preprečevanje mednarodnega organiziranega kriminala.

7. Države pogodbenice, če je to potrebno, sodelujejo med seboj in z ustreznimi mednarodnimi in regionalnimi organizacijami pri pospeševanju in pripravi ukrepov iz tega člena. To vključuje tudi sodelovanje v mednarodnih projektih za preprečevanje mednarodnega organiziranega kriminala na primer z vplivom na tiste dejavnike, zaradi katerih so marginalne skupine v družbi dovzetnejše za delovanje mednarodnega organiziranega kriminala.

32. člen

Konferenca pogodbenic konvencije

1. Konferenca pogodbenic konvencije je ustanovljena za izboljšanje sposobnosti držav pogodbenic v boju proti mednarodnemu organiziranemu kriminalu in pospeševanje ter spremljanje izvajanja te konvencije.

2. Generalni sekretar Združenih narodov skliče konferenco pogodbenic najpozneje eno leto po začetku veljavnosti te konvencije. Konferenca pogodbenic sprejme poslovnik in pravila za dejavnosti iz tretjega in četrtega odstavka tega člena (skupaj s pravili o plačevanju stroškov, ki nastanejo pri izvajanju teh dejavnosti).

3. Na konferenci se pogodbenice sporazumejo o mehanizmih za doseganje ciljev iz prvega odstavka tega člena, ki vključujejo:

(a) Facilitating activities by States Parties under articles 29, 30 and 31 of this Convention, including by encouraging the mobilization of voluntary contributions;

(b) Facilitating the exchange of information among States Parties on patterns and trends in transnational organized crime and on successful practices for combating it;

(c) Cooperating with relevant international and regional organizations and non-governmental organizations;

(d) Reviewing periodically the implementation of this Convention;

(e) Making recommendations to improve this Convention and its implementation.

4. For the purpose of paragraphs 3 (d) and (e) of this article, the Conference of the Parties shall acquire the necessary knowledge of the measures taken by States Parties in implementing this Convention and the difficulties encountered by them in doing so through information provided by them and through such supplemental review mechanisms as may be established by the Conference of the Parties.

5. Each State Party shall provide the Conference of the Parties with information on its programmes, plans and practices, as well as legislative and administrative measures to implement this Convention, as required by the Conference of the Parties.

Article 33

Secretariat

1. The Secretary-General of the United Nations shall provide the necessary secretariat services to the Conference of the Parties to the Convention.

2. The secretariat shall:

(a) Assist the Conference of the Parties in carrying out the activities set forth in article 32 of this Convention and make arrangements and provide the necessary services for the sessions of the Conference of the Parties;

(b) Upon request, assist States Parties in providing information to the Conference of the Parties as envisaged in article 32, paragraph 5, of this Convention; and

(c) Ensure the necessary coordination with the secretariats of relevant international and regional organizations.

Article 34

Implementation of the Convention

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.

2. The offences established in accordance with articles 5, 6, 8 and 23 of this Convention shall be established in the domestic law of each State Party independently of the transnational nature or the involvement of an organized criminal group as described in article 3, paragraph 1, of this Convention, except to the extent that article 5 of this Convention would require the involvement of an organized criminal group.

3. Each State Party may adopt more strict or severe measures than those provided for by this Convention for preventing and combating transnational organized crime.

Article 35

Settlement of disputes

I. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation.

(a) spodbujanje dejavnosti držav pogodbenic po 29., 30. in 31. členu te konvencije, vključno s spodbujanjem dajanja prostovoljnih prispevkov;

(b) spodbujanje izmenjave informacij med državami pogodbenicami o vzorcih in trendih mednarodnega organiziranega kriminala in uspešni praksi v boju proti njemu;

(c) sodelovanje z ustreznimi mednarodnimi in regionalnimi organizacijami in nevladnimi organizacijami;

(d) občasen pregled izvajanja te konvencije;

(e) oblikovanje priporočil za izboljšanje konvencije in njenega izvajanja.

4. Za uresničitev pododstavkov d in e tretjega odstavka tega člena se konferenca pogodbenic ustrezno seznani z ukrepi, ki so jih izvedle države pogodbenice pri izvajanju te konvencije, ter o težavah, s katerimi so se pri tem srečale, in sicer na podlagi informacij držav pogodbenic in dodatnih spremljevalnih mehanizmov, ki jih lahko določi konferenca pogodbenic.

5. Vsaka država pogodbenica konferenci pogodbenic na njeno zahtevi priskrbi informacije o svojih programih, načrtih in praksi kakor tudi o zakonodajnih in upravnih ukrepih za izvajanje te konvencije.

33. člen

Sekretariat

1. Generalni sekretar Združenih narodov zagotovi potrebne storitve sekretariata za konferenco pogodbenic.

2. Sekretariat:

(a) pomaga konferenci pogodbenic pri izvajanju dejavnosti iz 32. člena te konvencije, sklepa dogovore in zagotovi potrebne storitve za zasedanja konference pogodbenic;

(b) na zahtevo pomaga državam pogodbenicam pri zagotavljanju informacij konferenci pogodbenic, kot to predvideva peti odstavek 32. člena te konvencije;

(c) zagotovi potrebno usklajevanje s sekretariati ustreznih mednarodnih in regionalnih organizacij.

34. člen

Izvajanje konvencije

1. Vsaka država pogodbenica sprejme potrebne ukrepe, vključno z zakonodajnimi in upravnimi, da v skladu s temeljnimi načeli svojega notranjega prava zagotovi izpolnjevanje svojih obveznosti po tej konvenciji.

2. Kazniva dejanja, določena v skladu s 5., 6., 8. in 23. členom te konvencije, se določijo v notranjem pravu vsake države pogodbenice ne glede na mednarodno naravo ali vpletenost organizirane kriminalne združbe, kot je opisana v prvem odstavku 3. člena te konvencije, razen kadar bi bila po 5. členu te konvencije zahtevana vpletenost organizirane kriminalne združbe.

3. Država pogodbenica lahko sprejme podrobnejše ali strožje ukrepe za preprečevanje in zatiranje mednarodnega organiziranega kriminala od ukrepov, kot so predvideni s to konvencijo.

35. člen

Reševanje sporov

1. Države pogodbenice si prizadevajo reševati spore zaradi razlage ali uporabe te konvencije s pogajanji.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Convention, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 36

Signature, ratification, acceptance, approval and accession

1. This Convention shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Convention shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Convention in accordance with paragraph 1 of this article.

3. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Convention is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Convention. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 37

Relation with protocols

1. This Convention may be supplemented by one or more protocols.

2. In order to become a Party to a protocol, a State or a regional economic integration organization must also be a Party to this Convention.

3. A State Party to this Convention is not bound by a protocol unless it becomes a Party to the protocol in accordance with the provisions thereof.

4. Any protocol to this Convention shall be interpreted together with this Convention, taking into account the purpose of that protocol.

2. Spor med dvema ali več državami pogodbenicami zaradi razlage ali uporabe te konvencije, ki ga v razumnem času ni mogoče rešiti s pogajanji, se na predlog ene države pogodbenice predloži v arbitražo. Če se države pogodbenice v šestih mesecih po predlogu za arbitražo ne morejo dogovoriti o organizaciji arbitraže, lahko vsaka država pogodbenica predloži spor Meddržavnemu sodišču v skladu z njegovim statutom.

3. Država pogodbenica lahko ob podpisu, ratifikaciji, sprejetju ali odobritvi te konvencije ali pristopu k njej izjavi, da se ne šteje za zavezano po drugem odstavku tega člena. Drugi odstavek tega člena drugih držav v odnosu do države, ki je dala tak pridržek, ne zavezuje.

4. Država pogodbenica, ki je dala pridržek v skladu s tretjim odstavkom tega člena, ga lahko kadar koli umakne z uradnim obvestilom generalnemu sekretarju Združenih narodov.

36. člen

Podpis, ratifikacija, sprejetje, odobritev in pristop

1. Ta konvencija je vsem državam na voljo za podpis od 12. do 15. decembra 2000 v Palermu, Italija, in nato do 12. decembra 2002 na sedežu Združenih narodov v New Yorku.

2. Ta konvencija je na voljo za podpis tudi regionalnim organizacijam za gospodarsko sodelovanje, če je vsaj ena država članica te organizacije podpisala to konvencijo v skladu s prvim odstavkom tega člena.

3. To konvencijo je treba ratificirati, sprejeti ali odobriti. Listine o ratifikaciji, sprejetju ali odobritvi se deponirajo pri generalnem sekretarju Združenih narodov. Regionalna organizacija za gospodarsko sodelovanje lahko deponira svojo listino o ratifikaciji, sprejetju ali odobritvi, če je tako storila vsaj ena njena država članica. V listini o ratifikaciji, sprejetju ali odobritvi ta organizacija izjavi, kakšen je obseg njenih pristojnosti za zadeve, ki jih ureja ta konvencija. Ta organizacija obvesti depozitarja tudi o vsaki pomembni spremembi obsega njenih pristojnosti.

4. K tej konvenciji lahko pristopi katera koli država ali regionalna organizacija za gospodarsko sodelovanje, katere vsaj ena država članica je pogodbenica te konvencije. Listine o pristopu se deponirajo pri generalnem sekretarju Združenih narodov. Regionalna organizacija za gospodarsko sodelovanje ob pristopu izjavi, kakšen je obseg njenih pristojnosti glede zadev, ki jih ureja ta konvencija. Ta organizacija obvesti depozitarja tudi o vsaki pomembni spremembi glede obsega svojih pristojnosti.

37. člen

Razmerje do protokolov

1. Ta konvencija se lahko dopolni z enim ali več protokoli.

2. Da bi postala članica protokola, mora biti država ali regionalna gospodarska organizacija tudi članica te konvencije.

3. Protokol ne zavezuje države pogodbenice te konvencije, če ne postane njegova pogodbenica v skladu z njegovimi določbami.

4. Vsak protokol k tej konvenciji se razlaga skupaj s to konvencijo, pri čemer je treba upoštevati namen protokola.

Article 38

Entry into force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the fortieth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument.

38. člen

Začetek veljavnosti

1. Ta konvencija začne veljati devetdeseti dan po datumu deponiranja štiridesete listine o ratifikaciji, sprejetju, odobritvi ali pristopu. Po tem odstavku se listine, ki jih deponirajo regionalne organizacije za gospodarsko sodelovanje, ne štejejo za dodatne k tistim, ki so jih deponirale države članice te organizacije.

2. Za državo ali regionalno organizacijo za gospodarsko sodelovanje, ki ratificira, sprejme, odobri to konvencijo ali k njej pristopi po deponiranju štiridesete listine, začne ta konvencija veljati trideseti dan po datumu deponiranja ustrezne listine te države ali organizacije.

Article 39

Amendment

1. After the expiry of five years from the entry into force of this Convention, a State Party may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Convention and any earlier amendments that they have ratified, accepted or approved.

39. člen

Spremembe

1. Po petih letih po začetku veljavnosti te konvencije lahko država pogodbenica predlaga spremembo in jo vloži pri generalnem sekretarju Združenih narodov, ki predlagano spremembo pošlje državam pogodbenicam in konferenci pogodbenic konvencije v razpravo in odločanje o predlogu. Konferenca pogodbenic stori vse, da doseže soglasje o vsaki spremembi. Če so izčrpana vsa prizadevanja za soglasje in ni bil dosežen sporazum, je za sprejetje spremembe na koncu potrebna dvetretjinska večina držav pogodbenic, ki so navzoče in glasujejo na konferenci pogodbenic.

2. Regionalne organizacije za gospodarsko sodelovanje v zadevah iz svojih pristojnosti uresničujejo svojo glasovalno pravico po tem členu s številom glasov, ki je enako številu njihovih držav članic, ki so pogodbenice te konvencije. Take organizacije ne smejo uresničevati svoje glasovalne pravice, če njihove države članice uresničujejo svoje in obratno.

3. Države pogodbenice morajo ratificirati, sprejeti ali odobriti spremembo, sprejeto v skladu s prvim odstavkom tega člena.

4. Sprememba, sprejeta v skladu s prvim odstavkom tega člena, začne za državo pogodbenico veljati devetdeset dni po datumu deponiranja listine o ratifikaciji, sprejetju ali odobritvi pri generalnem sekretarju Združenih narodov.

5. Ko sprememba začne veljati, je obvezujoča za tiste države pogodbenice, ki so izrazile soglasje, da jih zavezuje. Druge države pogodbenice pa še naprej zavezujejo določbe te konvencije in vse prejšnje spremembe, ki so jih ratificirale, sprejele ali odobrile.

Article 40

Denunciation

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Convention when all of its member States have denounced it.

3. Denunciation of this Convention in accordance with paragraph 1 of this article shall entail the denunciation of any protocols thereto.

40. člen

Odpoved

1. Država pogodbenica lahko odpove to konvencijo s pisnim uradnim obvestilom generalnemu sekretarju Združenih narodov. Odpoved začne veljati eno leto po tem, ko je generalni sekretar prejel uradno obvestilo.

2. Regionalna organizacija za gospodarsko sodelovanje preneha biti pogodbenica te konvencije, ko jo odpovejo vse njene države članice.

3. Posledica odpovedi te konvencije po prvem odstavku tega člena je tudi odpoved vseh protokolov h konvenciji.

Article 41

Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Convention.

2. The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

41. člen

Depozitar in jeziki

1. Depozitar te konvencije je generalni sekretar Združenih narodov.

2. Izvirnik te konvencije, katerega besedila v angleškem, arabskem, francoskem, kitajskem, ruskem in španskem jeziku so enako verodostojna, se deponira pri generalnem sekretarju Združenih narodov.

V POTRDITEV NAVEDENEGA so podpisani pooblaščenci, ki so jih za to pravilno pooblastile njihove vlade, podpisali to konvencijo.

3. člen

Za izvajanje konvencije skrbi Ministrstvo za pravosodje.

4. člen

Ob predložitvi listine o ratifikaciji konvencije Republika Slovenija poda pristojnim naslovnikom naslednji izjavi, ki se v slovenskem jeziku glasita:

K 16. členu konvencije:

»Republika Slovenija na podlagi pododstavka (a) petega odstavka 16. člena konvencije izjavlja, da šteje to konvencijo kot pravno podlago za sodelovanje pri izročitvah z drugimi pogodbenicami te konvencije. Če med Republiko Slovenijo in drugo državo pogodbenico te konvencije ne obstaja mednarodna pogodba ali drugačen dogovor, ki bi urejal izročitev, bo Republika Slovenija zahtevala dokumentacijo za izročitev skladno z njeno notranjo zakonodajo.«

K 18. členu konvencije:

»Republika Slovenija na podlagi trinajstega odstavka 18. člena konvencije izjavlja, da je osrednji organ za izvajanje konvencije Ministrstvo za pravosodje Republike Slovenije.

Republika Slovenija na podlagi štirinajstega odstavka 18. člena konvencije izjavlja, da naj bodo zaprosila in priloge, naslovljene na pristojni osrednji organ Republike Slovenije, sestavljene v slovenskem jeziku ali naj jim bo priložen prevod v slovenskem jeziku. Če prevoda v slovenski jezik ni mogoče zagotoviti, naj bodo zaprosila in priloge sestavljene v angleškem jeziku ali naj jim bo priložen prevod v angleškem jeziku.«

5. člen

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

Št. 212-05/04-35/1
Ljubljana, dne 9. aprila 2004
EPA 1203-III

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

43. Zakon o ratifikaciji Protokola, s katerim se spreminja Evropska konvencija o zatiranju terorizma (MPEKZT)

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

U K A Z
O RAZGLASITVI ZAKONA O RATIFIKACIJI PROTOKOLA, S KATERIM SE SPREMINJA EVROPSKA KONVENCIJA O ZATIRANJU TERORIZMA (MPEKZT)

Razglašam Zakon o ratifikaciji Protokola, s katerim se spreminja Evropska konvencija o zatiranju terorizma (MPEKZT), ki ga je sprejel Državni zbor Republike Slovenije na seji 9. aprila 2004.

Št. 001-22-68/04
Ljubljana, dne 19. aprila 2004

Predsednik
Republike Slovenije
dr. Janez Drnovšek l. r.

Z A K O N
O RATIFIKACIJI PROTOKOLA, S KATERIM SE SPREMINJA EVROPSKA KONVENCIJA O ZATIRANJU TERORIZMA (MPEKZT)

1. člen

Ratificira se Protokol, s katerim se spreminja Evropska konvencija o zatiranju terorizma, sprejet 15. maja 2003 v Strasbourgu.

2. člen

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

P R O T O C O L
AMENDING THE EUROPEAN CONVENTION ON THE SUPPRESSION OF TERRORISM

The member States of the Council of Europe, signatory to this Protocol,

Bearing in mind the Committee of Ministers of the Council of Europe's Declaration of 12 September 2001 and its Decision of 21 September 2001 on the Fight against International Terrorism, and the Vilnius Declaration on Regional Co-operation and the Consolidation of Democratic Stability in Greater Europe adopted by the Committee of Ministers at its 110th Session in Vilnius on 3 May 2002;

Bearing in mind the Parliamentary Assembly of the Council of Europe's Recommendation 1550 (2002) on Combating terrorism and respect for human rights;

Bearing in mind the General Assembly of the United Nations Resolution A/RES/51/210 on measures to eliminate international terrorism and the annexed Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, and its Resolution A/RES/49/60 on measures to eliminate international terrorism and the Declaration on Measures to Eliminate International Terrorism annexed thereto;

Wishing to strengthen the fight against terrorism while respecting human rights, and mindful of the Guidelines on human rights and the fight against terrorism adopted by the Committee of Ministers of the Council of Europe on 11 July 2002;

Considering for that purpose that it would be appropriate to amend the European Convention on the Suppression of Terrorism (ETS No. 90) opened for signature in Strasbourg on 27 January 1977, hereinafter referred to as "the Convention";

Considering that it would be appropriate to update the list of international conventions in Article 1 of the Convention and to provide for a simplified procedure to subsequently update it as required;

Considering that it would be appropriate to strengthen the follow-up of the implementation of the Convention;

P R O T O K O L ,
S KATERIM SE SPREMINJA EVROPSKA KONVENCIJA O ZATIRANJU TERORIZMA

Države članice Sveta Evrope, podpisnice tega protokola, so se

ob upoštevanju Deklaracije Odbora ministrov Sveta Evrope z dne 12. septembra 2001 in njegovega Sklepa z dne 21. septembra 2001 o boju proti mednarodnemu terorizmu ter Vilenske deklaracije o regionalnem sodelovanju in krepitvi demokratične stabilnosti v razširjeni Evropi, ki jo je Odbor ministrov sprejel na svojem 110. zasedanju v Vilni dne 3. maja 2002;

ob upoštevanju Priporočila Parlamentarne skupščine Sveta Evrope 1550 (2002) o boju proti terorizmu in za spoštovanje človekovih pravic;

ob upoštevanju Resolucije Generalne skupščine Združenih narodov A/RES/51/210 o ukrepih za odpravo mednarodnega terorizma in priložene Deklaracije, ki dopolnjuje Deklaracijo o ukrepih za odpravo mednarodnega terorizma iz leta 1994, ter njene Resolucije A/RES/49/60 o ukrepih za odpravo mednarodnega terorizma in njej priložene Deklaracije o ukrepih za odpravo mednarodnega terorizma;

v želji, da okrepijo boj proti terorizmu ob spoštovanju človekovih pravic ter zavedajoč se Smernic o človekovih pravicah in boju proti terorizmu, ki jih je sprejel Odbor ministrov Sveta Evrope 11. julija 2002;

glede na to, da bi bilo v ta namen primerno spremeniti Evropsko konvencijo o zatiranju terorizma (ETS št. 90), ki je bila dana na voljo za podpis 27. januarja 1977 v Strasbourgu, v nadaljevanju »konvencija«;

glede na to, da bi bilo primerno posodobiti seznam mednarodnih konvencij v 1. členu konvencije in poskrbeti za poenostavljeni postopek za morda potrebne poznejše posodobitve;

glede na to, da bi bilo primerno okrepiti nadaljnje izvajanje konvencije;

Considering that it would be appropriate to review the reservation regime;

Considering that it would be appropriate to open the Convention to the signature of all interested States,

Have agreed as follows:

Article 1

1 The introductory paragraph to Article 1 of the Convention shall become paragraph 1 of this article. In sub-paragraph b of this paragraph, the term "signed" shall be replaced by the term "concluded" and sub-paragraphs c, d, e and f of this paragraph shall be replaced by the following sub-paragraphs:

"**c** an offence within the scope of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted at New York on 14 December 1973;

d an offence within the scope of the International Convention Against the Taking of Hostages, adopted at New York on 17 December 1979;

e an offence within the scope of the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980;

f an offence within the scope of the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988;".

2 Paragraph 1 of Article 1 of the Convention shall be supplemented by the following four sub-paragraphs:

"**g** an offence within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988;

h an offence within the scope of the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;

i an offence within the scope of the International Convention for the Suppression of Terrorist Bombings, adopted at New York on 15 December 1997;

j an offence within the scope of the International Convention for the Suppression of the Financing of Terrorism, adopted at New York on 9 December 1999.".

3 The text of Article 1 of the Convention shall be supplemented by the following paragraph:

"2 Insofar as they are not covered by the conventions listed under paragraph 1, the same shall apply, for the purpose of extradition between Contracting States, not only to the commission of those principal offences as a perpetrator but also to:

a the attempt to commit any of these principal offences;

b the participation as an accomplice in the perpetration of any of these principal offences or in an attempt to commit any of them;

c organising the perpetration of, or directing others to commit or attempt to commit, any of these principal offences.".

Article 2

Paragraph 3 of Article 2 of the Convention shall be amended to read as follows:

"3 The same shall apply to:

a the attempt to commit any of the foregoing offences;

b the participation as an accomplice in any of the foregoing offences or in an attempt to commit any such offence;

c organising the perpetration of, or directing others to commit or attempt to commit, any of the foregoing offences.".

glede na to, da bi bilo primerno pregledati sistem pridržkov;

glede na to, da bi bilo primerno dati konvencijo na voljo za podpis vsem zainteresiranim državam,

sporazumele kot sledi:

1. člen

1. Uvodni odstavek 1. člena konvencije postane prvi odstavek tega člena. V pododstavku b) tega odstavka se beseda »podpisani« nadomesti z besedo »sklenjeni«, pododstavki c), d), e) in f) tega odstavka pa se nadomestijo s temi pododstavki:

»c) kazniva dejanja po Konvenciji o preprečevanju in kaznovanju kaznivih dejanj zoper osebe pod mednarodno zaščito, vštevši diplomatske agente, sprejeti v New Yorku 14. decembra 1973;

d) kazniva dejanja po Mednarodni konvenciji zoper jemanje talcev, sprejeti v New Yorku 17. decembra 1979;

e) kazniva dejanja po Konvenciji o fizičnem varovanju jedrskega materiala, sprejeti na Dunaju 3. marca 1980;

f) kazniva dejanja po Protokolu o zatiranju nezakonitih dejanj na letališčih za mednarodno civilno zrakoplovstvo, sestavljenem v Montrealu 24. februarja 1988;«

2. Prvi odstavek 1. člena konvencije se dopolni s temi štirimi pododstavki:

»g) kazniva dejanja po Konvenciji o preprečevanju nezakonitih dejanj zoper varnost pomorske plovbe, sestavljeni v Rimu 10. marca 1988;

h) kazniva dejanja po Protokolu za preprečevanje nezakonitih dejanj zoper varnost ploščadi, postavljenih na epikontinentalnem pasu, sestavljenem v Rimu 10. marca 1988;

i) kazniva dejanja po Mednarodni konvenciji o zatiranju terorističnih bombnih napadov, sprejeti v New Yorku 15. decembra 1997;

j) kazniva dejanja po Mednarodni konvenciji o zatiranju financiranja terorizma, sprejeti v New Yorku 9. decembra 1999.«

3. Besedilo 1. člena konvencije se dopolni s tem odstavkom:

»2. Če niso zajeta v konvencijah, naštetih v prvem odstavku, se za namene izročitve storilca med državami pogodbenicami ne šteje samo storitev temeljnih kaznivih dejanj, ampak tudi:

a. poskus storitve katerega od teh temeljnih kaznivih dejanj;

b. sostorilstvo pri storitvi ali poskusu storitve katerega od teh temeljnih kaznivih dejanj;

c. organiziranje storitve ali napeljevanje drugih k storitvi ali poskus storitve katerega od teh temeljnih kaznivih dejanj.«

2. člen

Tretji odstavek 2. člena konvencije se spremeni, tako da se glasi:

»3. Enako velja za:

a. poskus storitve katerega koli navedenega kaznivega dejanja;

b. sostorilstvo pri katerem koli navedenem kaznivem dejanju ali poskusu storitve takega kaznivega dejanja;

c. organiziranje storitve ali napeljevanje drugih k storitvi ali poskus storitve katerega koli navedenega kaznivega dejanja.«

Article 3

1 The text of Article 4 of the Convention shall become paragraph 1 of this article and a new sentence shall be added at the end of this paragraph as follows: "Contracting States undertake to consider such offences as extraditable offences in every extradition treaty subsequently concluded between them.".

2 The text of Article 4 of the Convention shall be supplemented by the following paragraph:

"2 When a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, the requested Contracting State may, at its discretion, consider this Convention as a legal basis for extradition in relation to any of the offences mentioned in Articles 1 or 2.".

3. člen

1. Besedilo 4. člena konvencije postane prvi odstavek tega člena in na koncu tega odstavka se doda nov stavek, ki se glasi: »Države pogodbenice se zavezujejo, da bodo v vseh pogodbah o izročitvi, ki jih bodo pozneje med seboj sklenile, štele taka kazniva dejanja za kazniva dejanja, za katera se lahko zahteva izročitev.«

2. Besedilo 4. člena konvencije se dopolni s tem odstavkom:

»2. Če država pogodbenica kot pogoj za izročitev zahteva obstoj pogodbe, prejme prošnjo za izročitev od druge države pogodbenice, s katero nima sklenjene pogodbe o izročitvi, lahko zaprošena država pogodbenica po lastnem preudarku šteje to konvencijo za pravno podlago za izročitev za katero koli kaznivo dejanje iz 1. ali 2. člena.«

Article 4

1 The text of Article 5 of the Convention shall become paragraph 1 of this article.

2 The text of Article 5 of the Convention shall be supplemented by the following paragraphs:

"2 Nothing in this Convention shall be interpreted as imposing on the requested State an obligation to extradite if the person subject of the extradition request risk being exposed to torture.

3 Nothing in this Convention shall be interpreted either as imposing on the requested State an obligation to extradite if the person subject of the extradition request risks being exposed to the death penalty or, where the law of the requested State does not allow for life imprisonment, to life imprisonment without the possibility of parole, unless under applicable extradition treaties the requested State is under the obligation to extradite if the requesting State gives such assurance as the requested State considers sufficient that the death penalty will not be imposed or, where imposed, will not be carried out, or that the person concerned will not be subject to life imprisonment without the possibility of parole.".

4. člen

1. Besedilo 5. člena konvencije postane prvi odstavek tega člena.

2. Besedilo 5. člena konvencije se dopolni s temi odstavki:

»2. Nobena določba v tej konvenciji se ne razlaga kot nalaganje obveznosti zaprošeni državi, da izroči osebo, če za osebo, ki naj bi jo izročili, obstaja tveganje, da bo izpostavljena mučenju.

3. Nobena določba v tej konvenciji se ne razlaga kot nalaganje obveznosti zaprošeni državi, da izroči osebo, za katero se zahteva izročitev, če ta tvega, da bo izpostavljena smrtni kazni ali dosmrtnemu zaporu brez možnosti pogojnega odpusta, če pravo zaprošene države ne dopušča dosmrtnega zapora, razen če mora po veljavnih pogodbah o izročitvi zaprošena država osebo izročiti, če da država prosilka tako zagotovilo, kot ga zaprošena država šteje za zadostno, da smrtna kazen ne bo izrečena, ali da izrečena smrtna kazen ne bo izvršena, ali da zadevna oseba ne bo v dosmrtnem zaporu brez možnosti pogojnega odpusta.«

Article 5

A new article shall be inserted after Article 8 of the Convention and shall read as follows:

"Article 9

The Contracting States may conclude between themselves bilateral or multilateral agreements in order to supplement the provisions of this Convention or to facilitate the application of the principles contained therein.".

5. člen

Za 8. členom konvencije se doda nov člen, ki se glasi:

»9. člen

Države pogodbenice lahko med seboj sklenejo dvo- ali večstranske sporazume, da dopolnijo določbe te konvencije ali omogočijo lažjo uporabo njenih načel.«

Article 6

1 Article 9 of the Convention shall become Article 10.

2 Paragraph 1 of new Article 10 shall be amended to read as follows:

"The European Committee on Crime Problems (CDPC) is responsible for following the application of the Convention. The CDPC:

a shall be kept informed regarding the application of the Convention;

b shall make proposals with a view to facilitating or improving the application of the Convention;

c shall make recommendations to the Committee of Ministers concerning the proposals for amendments to the Convention, and shall give its opinion on any proposals for amendments to the Convention submitted by a Contracting State in accordance with Articles 12 and 13;

d shall, at the request of a Contracting State, express an opinion on any question concerning the application of the Convention;

e shall do whatever is necessary to facilitate a friendly settlement of any difficulty which may arise out of the execution of the Convention;

6. člen

1. 9. člen konvencije postane 10. člen.

2. Prvi odstavek novega 10. člena se spremeni, tako da se glasi:

»Evropski odbor za vprašanja kriminalitete je pristojen za spremljanje izvajanja te konvencije. Evropski odbor za vprašanja kriminalitete:

a) je redno obveščen o izvajanju konvencije;

b) daje predloge za lažje ali boljše izvajanje konvencije;

c) daje priporočila Odboru ministrov glede predlogov za spremembe konvencije in daje mnenja o predlogih za spremembe konvencije, ki jih predloži država pogodbenica v skladu z 12. in 13. členom;

d) na zahtevo države pogodbenice da mnenje o katerem koli vprašanju, povezanem z izvajanjem konvencije;

e) stori vse potrebno, da olajša mirno poravnavo katere koli težave, do katere lahko pride pri izvajanju konvencije;

f shall make recommendations to the Committee of Ministers concerning non-member States of the Council of Europe to be invited to accede to the Convention in accordance with Article 14, paragraph 3;

g shall submit every year to the Committee of Ministers of the Council of Europe a report on the follow-up given to this article in the application of the Convention.".

3 Paragraph 2 of new Article 10 shall be deleted.

Article 7

1 Article 10 of the Convention shall become Article 11.

2 In the first sentence of paragraph 1 of new Article 11, the terms "Article 9, paragraph 2" shall be replaced by the terms "Article 10.e, or by negotiation". In the second sentence of this paragraph, the term "two" shall be deleted. The remaining sentences of this paragraph shall be deleted.

3 Paragraph 2 of new Article 11 shall become paragraph 6 of this article. The sentence "Where a majority cannot be reached, the referee shall have a casting vote" shall be added after the second sentence and in the last sentence the terms "Its award" shall be replaced by the terms "The tribunal's judgement".

4 The text of new Article 11 shall be supplemented by the following paragraphs:

"2 In the case of disputes involving Parties which are member States of the Council of Europe, where a Party fails to nominate its arbitrator in pursuance of paragraph 1 of this article within three months following the request for arbitration, an arbitrator shall be nominated by the President of the European Court of Human Rights at the request of the other Party.

3 In the case of disputes involving any Party which is not a member of the Council of Europe, where a Party fails to nominate its arbitrator in pursuance of paragraph 1 of this article within three months following the request for arbitration, an arbitrator shall be nominated by the President of the International Court of Justice at the request of the other Party.

4 In the cases covered by paragraphs 2 and 3 of this article, where the President of the Court concerned is a national of one of the Parties to the dispute, this duty shall be carried out by the Vice-President of the Court, or if the Vice-President is a national of one of the Parties to the dispute, by the most senior judge of the Court who is not a national of one of the Parties to the dispute.

5 The procedures referred to in paragraphs 2 or 3 and 4 above apply, mutatis mutandis, where the arbitrators fail to agree on the nomination of a referee in accordance with paragraph 1 of this article.".

Article 8

A new article shall be introduced after new Article 11 and shall read as follows:

"Article 12

1 Amendments to this Convention may be proposed by any Contracting State, or by the Committee of Ministers. Proposals for amendment shall be communicated by the Secretary General of the Council of Europe to the Contracting States.

2 After having consulted the non-member Contracting States and, if necessary, the CDPC, the Committee of Ministers may adopt the amendment in accordance with the majority provided for in Article 20.d of the Statute of the Council of Europe. The Secretary General of the Council of Europe shall submit any amendments adopted to the Contracting States for acceptance.

3 Any amendment adopted in accordance with the above paragraph shall enter into force on the thirtieth day following notification by all the Parties to the Secretary General of their acceptance thereof.".

f) daje priporočila Odboru ministrov glede nečlanic Sveta Evrope, ki naj bi bile povabljene, da pristopijo h konvenciji v skladu s tretjim odstavkom 14. člena;

g) Odboru ministrov Sveta Evrope vsako leto na podlagi tega člena predloži poročilo o spremljanju izvajanja konvencije.«

3. Drugi odstavek novega 10. člena se črta.

7. člen

1. 10. člen konvencije postane 11. člen.

2. V prvem stavku prvega odstavka novega 11. člena se besede »z drugim odstavkom 9. člena« nadomestijo z besedami »s pododstavkom e) 10. člena ali s pogajanji«. V drugem stavku tega odstavka se črta beseda »dva«. Preostali stavki tega člena se črtajo.

3. Drugi odstavek novega 11. člena postane šesti odstavek tega člena. Za drugim stavkom se doda stavek: »Če ni mogoče doseči večine, ima tretji razsodnik odločilen glas.« V zadnjem stavku se besedi »njegova razsodba« zamenjata z besedami »sodba tega sodišča«.

4. Besedilo novega 11. člena se dopolni s temi odstavki:

»2. Če pri sporih, ki vključujejo stranke, ki so države članice Sveta Evrope, stranka ne imenuje svojega razsodnika v skladu s prvim odstavkom tega člena v treh mesecih od zahteve za arbitražo, razsodnika na zahtevo druge stranke imenuje predsednik Evropskega sodišča za človekove pravice.

3. Če pri sporih, ki vključujejo stranko, ki ni članica Sveta Evrope, stranka ne imenuje svojega razsodnika v skladu s prvim odstavkom tega člena v treh mesecih od zahteve za arbitražo, razsodnika na zahtevo druge stranke imenuje predsednik Meddržavnega sodišča.

4. Če je v primerih iz drugega in tretjega odstavka tega člena predsednik zadevnega sodišča državljan ene od strank v sporu, to dolžnost opravi podpredsednik sodišča, ali če je podpredsednik državljan ene od strank v sporu, najstarejši sodnik sodišča, ki ni državljan nobene stranke v sporu.

5. Postopki iz drugega ali tretjega in četrtega odstavka se smiselno uporabljajo tudi kadar se razsodniki ne sporazumejo o imenovanju tretjega razsodnika v skladu s prvim odstavkom tega člena.«

8. člen

Za novim 11. členom se doda nov člen, ki se glasi:

»12. člen

1. Država pogodbenica ali Odbor ministrov lahko predlaga spremembe te konvencije. Generalni sekretar Sveta Evrope pošlje predloge za spremembo državam pogodbenicam.

2. Po posvetovanju z državami pogodbenicami, ki niso članice, in po potrebi z Evropskim odborom za vprašanja kriminalitete lahko Odbor ministrov sprejme spremembo v skladu z večino, določeno v pododstavku d) 20. člena Statuta Sveta Evrope. Generalni sekretar Sveta Evrope vse sprejete spremembe predloži v odobritev državam pogodbenicam.

3. Sprememba, sprejeta v skladu s prejšnjim odstavkom, začne veljati trideseti dan po tem, ko je generalni sekretar prejel uradno obvestilo vseh strank, da jo sprejemajo.«

Article 9

A new article shall be introduced after new Article 12 and shall read as follows:

"Article 13

1 In order to update the list of treaties in Article 1, paragraph 1, amendments may be proposed by any Contracting State or by the Committee of Ministers. These proposals for amendment shall only concern treaties concluded within the United Nations Organisation dealing specifically with international terrorism and having entered into force. They shall be communicated by the Secretary General of the Council of Europe to the Contracting States.

2 After having consulted the non-member Contracting States and, if necessary the CDPC, the Committee of Ministers may adopt a proposed amendment by the majority provided for in Article 20.d of the Statute of the Council of Europe. The amendment shall enter into force following the expiry of a period of one year after the date on which it has been forwarded to the Contracting States. During this period, any Contracting State may notify the Secretary General of any objection to the entry into force of the amendment in its respect.

3 If one-third of the Contracting States notifies the Secretary General of an objection to the entry into force of the amendment, the amendment shall not enter into force.

4 If less than one-third of the Contracting States notifies an objection, the amendment shall enter into force for those Contracting States which have not notified an objection.

5 Once an amendment has entered into force in accordance with paragraph 2 of this article and a Contracting State has notified an objection to it, this amendment shall come into force in respect of the Contracting State concerned on the first day of the month following the date on which it has notified the Secretary General of the Council of Europe of its acceptance.".

Article 10

1 Article 11 of the Convention shall become Article 14.

2 In the first sentence of paragraph 1 of new Article 14 the terms "member States of the Council of Europe" shall be replaced by the terms "member States of and Observer States to the Council of Europe" and in the second and third sentences, the terms "or approval" shall be replaced by the terms ", approval or accession".

3 The text of new Article 14 shall be supplemented by the following paragraph:

"3 The Committee of Ministers of the Council of Europe, after consulting the CDPC, may invite any State not a member of the Council of Europe, other than those referred to under paragraph 1 of this article, to accede to the Convention. The decision shall be taken by the majority provided for in Article 20.*d* of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.".

4 Paragraph 3 of new Article 14 shall become paragraph 4 of this article, and the terms "or approving" and "or approval" shall be replaced respectively by the terms ", approving or acceding" and ", approval or accession".

Article 11

1 Article 12 of the Convention shall become Article 15.

2 In the first sentence of paragraph 1 of new Article 15, the terms "or approval" shall be replaced by the terms ", approval or accession".

3 In the first sentence of paragraph 2 of new Article 15, the terms "or approval" are replaced by the terms " approval or accession".

9. člen

Za novim 12. členom se doda nov člen, ki se glasi:

»13. člen

1. Država pogodbenica ali Odbor ministrov lahko predlaga spremembe za posodobitev seznama pogodb iz prvega odstavka 1. člena. Predlogi za spremembe se nanašajo samo na pogodbe, ki so sklenjene v okviru Organizacije Združenih narodov in se nanašajo izrecno na mednarodni terorizem in že veljajo. Generalni sekretar Sveta Evrope sporoči predloge državam pogodbenicam.

2. Po posvetovanju z državami pogodbenicami, ki niso članice, in po potrebi z Evropskim odborom za vprašanja kriminalitete lahko Odbor ministrov sprejme predlagano spremembo z večino, določeno v pododstavku d) 20. člena Statuta Sveta Evrope. Sprememba začne veljati eno leto po datumu, ko je bila poslana državam pogodbenicam. V tem letu lahko vsaka država pogodbenica uradno obvesti generalnega sekretarja o kakršnem koli ugovoru k začetku veljavnosti spremembe zanjo.

3. Če ena tretjina držav pogodbenic uradno obvesti generalnega sekretarja, da ugovarja začetku veljavnosti spremembe, sprememba ne začne veljati.

4. Če manj kot ena tretjina držav pogodbenic pošlje uradno obvestilo o ugovoru, sprememba začne veljati za tiste države pogodbenice, ki niso poslale uradnega obvestila o ugovoru.

5. Ko sprememba začne veljati v skladu z drugim odstavkom tega člena in je država pogodbenica poslala uradno obvestilo o ugovoru, ta sprememba začne veljati za to državo pogodbenico prvi dan meseca, ki sledi dnevu, ko je uradno obvestila generalnega sekretarja Sveta Evrope, da sprejema spremembo.«

10. člen

1. 11. člen konvencije postane 14. člen.

2. V prvem stavku prvega odstavka novega 14. člena se besede »državam članicam Sveta Evrope« nadomestijo z besedami »državam članicam in državam opazovalkam Sveta Evrope«, v drugem in tretjem stavku pa se besede »ali odobriti« in »ali odobritvi« nadomestijo z besedami », odobriti ali k njej pristopiti« in », odobritvi ali pristopu«.

3. Besedilo novega 14. člena se dopolni s tem odstavkom:

»3. Po posvetovanju z Evropskim odborom za vprašanja kriminalitete lahko Odbor ministrov Sveta Evrope povabi vsako državo, ki ni članica Sveta Evrope, razen tistih iz prvega odstavka tega člena, da pristopi h konvenciji. Odločitev se sprejme z večino, določeno v točki d) 20. člena Statuta Sveta Evrope, in jo soglasno sprejmejo predstavniki držav pogodbenic, ki so člani Odbora ministrov.«

4. Tretji odstavek novega 14. člena postane četrti odstavek tega člena, besede »ali odobri« in »ali odobritvi« pa se nadomestijo z besedami », odobri ali pristopi« in », odobritvi ali pristopu«.

11. člen

1. 12. člen Konvencije postane 15. člen.

2. V prvem stavku prvega odstavka novega 15. člena se besedi »ali odobritvi« nadomestita z besedami », odobritvi ali pristopu«.

3. V prvem stavku drugega odstavka 15. člena se besedi »ali odobritvi« nadomestita z besedami », odobritvi ali pristopu«.

Article 12

1 Reservations to the Convention made prior to the opening for signature of the present Protocol shall not be applicable to the Convention as amended by the present Protocol.

2 Article 13 of the Convention shall become Article 16.

3 In the first sentence of paragraph 1 of new Article 16 the terms “Party to the Convention on 15 May 2003” shall be added before the term “may” and the terms “of the Protocol amending the Convention” shall be added after the term “approval”. A second sentence shall be added after the terms “political motives” and shall read: “The Contracting State undertakes to apply this reservation on a case-by-case basis, through a duly reasoned decision and taking into due consideration, when evaluating the character of the offence, any particularly serious aspects of the offence, including:”. The remainder of the first sentence shall be deleted, with the exception of sub-paragraphs a, b and c.

4 The text of new Article 16 shall be supplemented by the following paragraph:

“2 When applying paragraph 1 of this article, a Contracting State shall indicate the offences to which its reservation applies.”.

5 Paragraph 2 of new Article 16 shall become paragraph 3 of this article. In the first sentence of this paragraph, the term "Contracting" shall be added before the term "State" and the terms “the foregoing paragraph” shall be replaced by the terms “paragraph 1.”.

6 Paragraph 3 of new Article 16 shall become paragraph 4 of this article. In the first sentence of this paragraph, the term "Contracting" shall be added before the term "State".

7 The text of new Article 16 shall be supplemented by the following paragraphs:

“5 The reservations referred to in paragraph 1 of this article shall be valid for a period of three years from the day of the entry into force of this Convention in respect of the State concerned. However, such reservations may be renewed for periods of the same duration.

6 Twelve months before the date of expiry of the reservation, the Secretariat General of the Council of Europe shall give notice of that expiry to the Contracting State concerned. No later than three months before expiry, the Contracting State shall notify the Secretary General of the Council of Europe that it is upholding, amending or withdrawing its reservation. Where a Contracting State notifies the Secretary General of the Council of Europe that it is upholding its reservation, it shall provide an explanation of the grounds justifying its continuance. In the absence of notification by the Contracting State concerned, the Secretary General of the Council of Europe shall inform that Contracting State that its reservation is considered to have been extended automatically for a period of six months. Failure by the Contracting State concerned to notify its intention to uphold or modify its reservation before the expiry of that period shall cause the reservation to lapse.

7 Where a Contracting State does not extradite a person, in application of a reservation made in accordance with paragraph 1 of this article, after receiving a request for extradition from another Contracting State, it shall submit the case, without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution, unless the requesting State and the requested State otherwise agree. The competent authorities, for the purpose of prosecution in the requested State, shall take their decision in the same manner as in the case of any offence of a serious nature under the law of that State. The requested State shall communicate, without undue delay, the final outcome of the proceedings to the requesting State and to the Secretary General of the Council of Europe, who shall forward it to the Conference provided for in Article 17.

12. člen

1. Pridržki h konvenciji, dani preden je ta protokol na voljo za podpis, se ne uporabljajo za konvencijo, ki jo spreminja ta protokol.

2. 13. člen konvencije postane 16. člen.

3. V prvem stavku prvega odstavka novega 16. člena se pred besedo »lahko« dodajo besede »pogodbenica konvencije 15. 5. 2003«, za besedo »odobritvi« pa se dodajo besede »protokola, ki spreminja konvencijo«. Za besedama »političnimi razlogi« se doda drugi stavek, ki se glasi: »Države pogodbenice se zavezujejo, da bodo ta pridržek uporabljale za vsak primer posebej na podlagi pravilno utemeljene odločitve in bodo pri oceni narave kaznivega dejanja ustrezno upoštevale posebej hude vidike tega kaznivega dejanja, vključno:« Preostanek prvega stavka se črta, razen pododstavkov a), b) in c).

4. Besedilo novega 16. člena se dopolni s tem odstavkom:

»2. Pri uporabi prvega odstavka tega člena država pogodbenica navede kazniva dejanja, za katera se uporabi njen pridržek.«

5. Drugi odstavek novega 16. člena postane tretji odstavek tega člena. V prvem stavku tega odstavka se za besedo »država« doda beseda »pogodbenica«, besedi »prejšnjega odstavka« pa se nadomestita z besedama »prvega odstavka.«

6. Tretji odstavek novega 16. člena postane četrti odstavek tega člena. V prvem stavku tega odstavka se za besedo »Država« doda beseda »pogodbenica«.

7. Besedilo novega 16. člena se dopolni s temi odstavki:

»5. Pridržki iz prvega odstavka tega člena veljajo tri leta od dneva začetka veljavnosti te konvencije za zadevno državo. Ti pridržki pa se lahko obnovijo za enaka časovna obdobja.

6. Generalni sekretariat Sveta Evrope obvesti zadevno državo pogodbenico o prenehanju veljavnosti pridržka dvanajst mesecev pred datumom poteka njegove veljavnosti. Najpozneje tri mesece pred prenehanjem veljavnosti država pogodbenica uradno obvesti generalni sekretar Sveta Evrope, da podaljšuje, spreminja ali umika svoj pridržek. Če država pogodbenica uradno obvesti generalnega sekretarja Sveta Evrope, da podaljšuje svoj pridržek, obrazloži razloge za njegovo podaljšanje. Če zadevna država pogodbenica ne pošlje uradnega obvestila, jo generalni sekretar Sveta Evrope obvesti, da se njen pridržek šteje za samodejno podaljšanega za šest mesecev. Če ta država pogodbenica pred iztekom tega roka ne pošlje uradnega obvestila o svoji nameri, da podaljša ali spremeni svoj pridržek, ta neha veljati.

7. Če država pogodbenica na podlagi pridržka, danega v skladu s prvim odstavkom tega člena, ne izroči osebe, potem ko je od druge države pogodbenice prejela prošnjo za izročitev, zadevo brez izjeme in neutemeljenega odlašanja predloži svojim organom, pristojnim za kazenski pregon, razen če se država prosilka in zaprošena država ne dogovorita drugače. Organi, pristojni za kazenski pregon v zaprošeni državi, odločajo enako kot pri drugih hudih kaznivih dejanjih po pravu te države. Zaprošena država brez neutemeljenega odlašanja sporoči izid postopkov državi prosilki in generalnemu sekretarju Sveta Evrope, ta pa ga pošlje konferenci, določeni v 17. členu.

8 The decision to refuse the extradition request, on the basis of a reservation made in accordance with paragraph 1 of this article, shall be forwarded promptly to the requesting State. If within a reasonable time no judicial decision on the merits has been taken in the requested State according to paragraph 7, the requesting State may communicate this fact to the Secretary General of the Council of Europe, who shall submit the matter to the Conference provided for in Article 17. This Conference shall consider the matter and issue an opinion on the conformity of the refusal with the Convention and shall submit it to the Committee of Ministers for the purpose of issuing a declaration thereon. When performing its functions under this paragraph, the Committee of Ministers shall meet in its composition restricted to the Contracting States.".

Article 13

A new article shall be introduced after new Article 16 of the Convention, and shall read as follows:

"Article 17

1 Without prejudice to the application of Article 10, there shall be a Conference of States Parties against Terrorism (hereinafter referred to as the "COSTER") responsible for ensuring:

a the effective use and operation of this Convention including the identification of any problems therein, in close contact with the CDPC;

b the examination of reservations made in accordance with Article 16 and in particular the procedure provided in Article 16, paragraph 8;

c the exchange of information on significant legal and policy developments pertaining to the fight against terrorism;

d the examination, at the request of the Committee of Ministers, of measures adopted within the Council of Europe in the field of the fight against terrorism and, where appropriate, the elaboration of proposals for additional measures necessary to improve international co-operation in the area of the fight against terrorism and, where co-operation in criminal matters is concerned, in consultation with the CDPC;

e the preparation of opinions in the area of the fight against terrorism and the execution of the terms of reference given by the Committee of Ministers.

2 The COSTER shall be composed of one expert appointed by each of the Contracting States. It will meet once a year on a regular basis, and on an extraordinary basis at the request of the Secretary General of the Council of Europe or of at least one-third of the Contracting States.

3 The COSTER will adopt its own Rules of Procedure. The expenses for the participation of Contracting States which are member States of the Council of Europe shall be borne by the Council of Europe. The Secretariat of the Council of Europe will assist the COSTER in carrying out its functions pursuant to this article.

4 The CDPC shall be kept periodically informed about the work of the COSTER.".

Article 14

Article 14 of the Convention shall become Article 18.

Article 15

Article 15 of the Convention shall be deleted.

Article 16

1 Article 16 of the Convention shall become Article 19.

2 In the introductory sentence of new Article 19, the terms "member States of the Council" shall be replaced by the terms "Contracting States".

8. Odločitev o zavrnitvi prošnje za izročitev na podlagi pridržka, danega v skladu s prvim odstavkom tega člena, se takoj pošlje državi prosilki. Če v razumnem roku ni bila sprejeta nobena sodna odločitev o vsebini zadeve v zaprošeni državi v skladu s sedmim odstavkom, lahko država prosilka to sporoči generalnemu sekretarju Sveta Evrope, ta pa zadevo predloži konferenci, določeni v 17. členu. Konferenca zadevo obravnava in izda mnenje o skladnosti zavrnitve s konvencijo in ga predloži Odboru ministrov, ki o tem izda izjavo. Pri opravljanju svojih nalog po tem odstavku se Odbor ministrov sestane v sestavi, omejeni na države pogodbenice.«

13. člen

Za novim 16. členom konvencije se doda nov člen, ki se glasi:

»17. člen

1. Brez poseganja v uporabo 10. člena se ustanovi Konferenca držav pogodbenic proti terorizmu (v nadaljevanju COSTER), ki je pristojna za zagotavljanje:

a) učinkovite uporabe in izvajanja konvencije skupaj z ugotavljanjem morebitnih težav, pri čemer tesno sodeluje z Evropskim odborom vprašanja za kriminalitete;

b) preučitve pridržkov v skladu s 16. členom in zlasti postopka, določenega v osmem odstavku 16. člena;

c) izmenjave informacij o pomembnih dosežkih na področju prava in politike v boju proti terorizmu;

d) na zahtevo Odbora ministrov preučitve ukrepov, ki jih je sprejel Svet Evrope na področju boja proti terorizmu, in po potrebi priprave predlogov za dodatne ukrepe, potrebne za izboljšanje mednarodnega sodelovanja v boju proti terorizmu in kadar se nanašajo na sodelovanje v kazenskih zadevah v posvetovanju z Evropskim odborom za vprašanja kriminalitete;

e) priprave mnenj o boju proti terorizmu in izvajanje pooblastil, ki ji jih je dal Odbor ministrov.

2. COSTER sestavljajo strokovnjaki, ki jih imenujejo države pogodbenice, vsaka enega. Sestaja se redno enkrat letno in izredno na zahtevo generalnega sekretarja Sveta Evrope ali vsaj ene tretjine držav pogodbenic.

3. COSTER sprejme svoj poslovnik. Stroške udeležbe držav pogodbenic, ki so države članice Sveta Evrope, krije Svet Evrope. Sekretariat Sveta Evrope COSTER-ju pomaga izvajati njegove naloge v skladu s tem členom.

4. O delu COSTER-ja se redno seznanja Evropski odbor za vprašanja kriminalitete.

14. člen

14. člen konvencije postane 18. člen.

15. člen

15. člen konvencije se črta.

16. člen

1. 16. člen konvencije postane 19. člen.

2. V uvodnem stavku novega 19. člena se besede »države članice Sveta« nadomestijo z besedama »države pogodbenice«.

3 In paragraph b of new Article 19, the terms "or approval" shall be replaced by the terms ", approval or accession".

4 In paragraph c of new Article 19, the number "11" shall read "14".

5 In paragraph d of new Article 19, the number "12" shall read "15".

6 Paragraphs e and f of new Article 19 shall be deleted.

7 Paragraph g of new Article 19 shall become paragraph e of this article and the number "14" shall read "18".

8 Paragraph h of new Article 19 shall be deleted.

Article 17

1 This Protocol shall be open for signature by member States of the Council of Europe signatories to the Convention, which may express their consent to be bound by:

a signature without reservation as to ratification, acceptance or approval; or

b signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

2 Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 18

This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which all Parties to the Convention have expressed their consent to be bound by the Protocol, in accordance with the provisions of Article 17.

Article 19

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe of:

a any signature;

b the deposit of any instrument of ratification, acceptance or approval;

c the date of entry into force of this Protocol, in accordance with Article 18;

d any other act, notification or communication relating to this Protocol.

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

Done at Strasbourg, this 15th day of May 2003, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory States.

3. V pododstavku b) novega 19. člena se besedi »ali odobritvi« nadomestita z besedami », odobritvi ali pristopu«.

4. V pododstavku c) novega 19. člena se številka »11.« popravi v »14.«.

5. V pododstavku d) novega 19. člena se številka »12.« popravi v »15.«.

6. Pododstavka e) in f) novega 19. člena se črtata.

7. Pododstavek g) novega 19. člena postane pododstavek e) tega člena, številka »14.« pa se popravi v »18.«.

8. Pododstavek h) novega 19. člena se črta.

17. člen

1. Protokol je na voljo za podpis državam članicam Sveta Evrope, podpisnicam konvencije, ki lahko izrazijo svoje soglasje, da jih zavezuje:

a) podpis brez pridržka glede ratifikacije, sprejetja ali odobritve ali

b) podpis s pridržkom glede ratifikacije, sprejetja ali odobritve, ki mu sledi ratifikacija, sprejetje ali odobritev.

2. Listine o ratifikaciji, sprejetju ali odobritvi se deponirajo pri generalnem sekretarju Sveta Evrope.

18. člen

Protokol začne veljati prvi dan meseca po poteku treh mesecev od datuma, na katerega so vse pogodbenice konvencije izrazile svoje soglasje, da jih ta protokol zavezuje v skladu z določbami 17. člena.

19. člen

Generalni sekretar Sveta Evrope uradno obvesti države članice Sveta Evrope o:

a) vsakem podpisu;

b) deponiranju vsake listine o ratifikaciji, sprejetju ali odobritvi;

c) datumu začetka veljavnosti tega protokola v skladu z 18. členom;

d) vsakem drugem aktu, uradnem obvestilu ali sporočilu, ki se nanaša na ta protokol.

Da bi to potrdila, sta podpisana, ki sta bila za to pravilno pooblaščena, podpisala ta protokol.

Sestavljeno dne 15. maja 2003 v Strasbourgu v angleškem in francoskem jeziku, pri čemer sta besedili enako verodostojni, v enem izvodu, ki se hrani v arhivu Sveta Evrope. Generalni sekretar Sveta Evrope vsaki državi podpisnici pošlje overjeni izvod.

3. člen

Za izvajanje protokola skrbi Ministrstvo za pravosodje.

4. člen

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

Št. 212-05/04-34/1
Ljubljana, dne 9. aprila 2004
EPA 1202-III

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

44. Zakon o ratifikaciji Mednarodne konvencije o civilni odgovornosti za škodo, ki jo povzroči onesnaženje z gorivom, 2001 (MKCOŠOG)

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

U K A Z
O RAZGLASITVI ZAKONA O RATIFIKACIJI MEDNARODNE KONVENCIJE O CIVILNI ODGOVORNOSTI ZA ŠKODO, KI JO POVZROČI ONESNAŽENJE Z GORIVOM, 2001 (MKCOŠOG)

Razglašam Zakon o ratifikaciji Mednarodne konvencije o civilni odgovornosti za škodo, ki jo povzroči onesnaženje z gorivom, 2001 (MKCOŠOG), ki ga je sprejel Državni zbor Republike Slovenije na seji 9. aprila 2004.

Št. 001-22-65/04
Ljubljana, dne 19. aprila 2004

Predsednik
Republike Slovenije
dr. Janez Drnovšek l. r.

Z A K O N
O RATIFIKACIJI MEDNARODNE KONVENCIJE O CIVILNI ODGOVORNOSTI ZA ŠKODO, KI JO POVZROČI ONESNAŽENJE Z GORIVOM, 2001 (MKCOŠOG)

1. člen

Ratificira se Mednarodna konvencija o civilni odgovornosti za škodo, ki jo povzroči onesnaženje z gorivom, sklenjena 23. marca 2001 v Londonu.

2. člen

Besedilo konvencije se v izvirniku v angleškem jeziku ter v prevodu v slovenskem jeziku glasi:

INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR BUNKER OIL POLLUTION DAMAGE, 2001

The States Parties to this Convention,

RECALLING article 194 of the United Nations Convention on the Law of the Sea, 1982, which provides that States shall take all measures necessary to prevent, reduce and control pollution of the marine environment,

RECALLING ALSO article 235 of that Convention, which provides that, with the objective of assuring prompt and adequate compensation in respect of all damage caused by pollution of the marine environment, States shall co-operate in the further development of relevant rules of international law,

NOTING the success of the International Convention on Civil Liability for Oil Pollution Damage, 1992 and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 in ensuring that compensation is available to persons who suffer damage caused by pollution resulting from the escape or discharge of oil carried in bulk at sea by ships,

NOTING ALSO the adoption of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea**,** 1996 in order to provide adequate, prompt and effective compensation for damage caused by incidents in connection with the carriage by sea of hazardous and noxious substances,

RECOGNIZING the importance of establishing strict liability for all forms of oil pollution which is linked to an appropriate limitation of the level of that liability,

CONSIDERING that complementary measures are necessary to ensure the payment of adequate, prompt and effective compensation for damage caused by pollution resulting from the escape or discharge of bunker oil from ships,

MEDNARODNA KONVENCIJA O CIVILNI ODGOVORNOSTI ZA ŠKODO, KI JO POVZROČI ONESNAŽENJE Z GORIVOM, 2001

Države pogodbenice te konvencije,

OB SKLICEVANJU NA člen 194 Konvencije Združenih narodov o pomorskem pravu iz leta 1982, ki predvideva, da države sprejmejo vse potrebne ukrepe za preprečitev, zmanjšanje in nadzor nad onesnaževanjem morskega okolja,

OB SKLICEVANJU TUDI NA člen 235 omenjene konvencije, ki predvideva, da za zagotavljanje hitrega in ustreznega nadomestila v zvezi s škodo, nastalo zaradi onesnaženja morskega okolja, države sodelujejo pri nadaljnjem razvoju ustreznih pravil mednarodnega prava,

OB UGOTOVITVI uspeha Mednarodne konvencije iz leta 1992 o civilni odgovornosti za škodo, ki jo povzroči onesnaženje z nafto, in Mednarodne konvencije iz leta 1992 o ustanovitvi Mednarodnega sklada za povrnitev škode, nastale zaradi onesnaženja z nafto pri zagotavljanju, da je povrnitev škode namenjena osebam, ki so utrpele škodo zaradi onesnaženja pri uhajanju ali razlitju nafte, ki jo ladje prevažajo v razsutem stanju,

PRAV TAKO OB UGOTOVITVI sprejetja Mednarodne konvencije iz leta 1996 o odgovornosti in povrnitvi škode v zvezi v prevozom nevarnih in zdravju škodljivih snovi po morju za zagotavljanje ustrezne, hitre in učinkovite povrnitve škode, nastale zaradi nezgod pri prevozu nevarnih in zdravju škodljivih snovi po morju,

OB PRIZNAVANJU pomembnosti določitve objektivne odgovornosti za vse oblike onesnaženja z nafto, ki je povezana z ustrezno omejitvijo stopnje navedene odgovornosti,

OB UPOŠTEVANJU, da so dopolnilni ukrepi potrebni za zagotovitev plačila ustrezne, hitre in učinkovite povrnitve škode zaradi onesnaženja, ki je nastalo zaradi uhajanja ali razlitja nafte iz ladijskih rezervoarjev,

DESIRING to adopt uniform international rules and procedures for determining questions of liability and providing adequate compensation in such cases,

HAVE AGREED as follows:

Article 1

Definitions

For the purposes of this Convention:

1 "Ship" means any seagoing vessel and seaborne craft, of any type whatsoever.

2 "Person" means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions.

3 "Shipowner" means the owner, including the registered owner, bareboat charterer, manager and operator of the ship.

4 "Registered owner" means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, "registered owner" shall mean such company.

5 "Bunker oil" means any hydrocarbon mineral oil, including lubricating oil, used or intended to be used for the operation or propulsion of the ship, and any residues of such oil.

6 "Civil Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended.

7 "Preventive measures" means any reasonable measures taken by any person after an incident has occurred to prevent or minimize pollution damage.

8 "Incident" means any occurrence or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage.

9 "Pollution damage" means:

(a) loss or damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and

(b) the costs of preventive measures and further loss or damage caused by preventive measures.

10 "State of the ship's registry" means, in relation to a registered ship, the State of registration of the ship and, in relation to an unregistered ship, the State whose flag the ship is entitled to fly.

11 "Gross tonnage" means gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 of the International Convention on Tonnage Measurement of Ships, 1969.

12 "Organization" means the International Maritime Organization.

13 "Secretary-General" means the Secretary-General of the Organization.

Article 2

Scope of application

This Convention shall apply exclusively:

(a) to pollution damage caused:

(i) in the territory, including the territorial sea, of a State Party, and

Z ŽELJO po sprejetju enotnih mednarodnih pravil in postopkov za ugotavljanje vprašanj o odgovornosti in zagotavljanje ustrezne odškodnine v takih primerih,

SO SE DOGOVORILE o naslednjem:

Člen 1

Opredelitve

Za namene te konvencije:

1. »ladja« pomeni vsa morska plovila vseh vrst, ki plujejo po morju,

2. »oseba« pomeni vse posameznike, družabnike, javne organe ali zasebnike, ne glede na to, ali so to podjetja ali ne, vključno z državo ali kateri koli njen sestavni del,

3. »lastnik ladje« pomeni lastnika, vključno z registriranim lastnikom, najemnikom prazne ladje, upravnikom in upravljalcem ladje,

4. »registrirani lastnik« pomeni osebo ali osebe, registrirane kot lastniki ladje ali, če registracija ne obstaja, osebo ali osebe, ki so lastniki ladje. Če je lastnica ladje država in z njo upravlja podjetje, ki je v tej državi registrirano kot upravljavec ladje, pomeni »registrirani lastnik« tako podjetje,

5. »gorivo« pomeni katero koli mineralno olje, proizvedeno iz ogljikovodikov, vključno z mazilnim oljem, ki se ga uporablja ali je namenjeno za obratovanje ali poganjanje ladje, in vsi ostanki takih olj,

6. »Konvencija o civilni odgovornosti« pomeni Mednarodno konvencijo iz leta 1992 o civilni odgovornosti za škodo, ki jo povzroči onesnaženje z nafto, kakor je bila spremenjena,

7. »preventivni ukrepi« pomenijo vse smiselne ukrepe, ki jih je privzela katera koli oseba po nezgodi, da bi preprečila ali kar najbolj zmanjšala škodo zaradi onesnaženja,

8. »nezgoda« pomeni vse dogodke ali niz dogodkov istega izvora, ki povzročijo škodo zaradi onesnaženja ali pa pomenijo resno in neizogibno grožnjo s povzročitvijo take škode,

9. »škoda zaradi onesnaženja« pomeni:

(a) izgubo ali škodo, povzročeno zunaj ladje z onesnaženjem zaradi uhajanja ali razlitja goriva iz ladje, kjerkoli lahko pride do takega uhajanja ali razlitja, pod pogojem, da je nadomestilo zaradi prizadetosti okolja, razen izgube dobička zaradi take prizadetosti, omejena na stroške smiselnih ukrepov ponovne vzpostavitve, ki so dejansko sprejeti ali bodo sprejeti, in

(b) stroške preventivnih ukrepov in nadaljnjo izgubo ali škodo, nastalo zaradi preventivnih ukrepov,

10. »Država registracije ladje« pomeni glede na registrirano ladjo državo registracije ladje in glede na neregistrirano ladjo državo, pod katere zastavo je ladja upravičena pluti,

11. »bruto tonaža« pomeni bruto tonažo, izračunano skladno z določbami o izmeri tonaže iz Priloge 1 Mednarodne konvencije iz leta 1969 o izmeri tonaže ladij,

12. »Organizacija« pomeni Mednarodno pomorsko organizacijo,

13. »Glavni tajnik« pomeni glavnega tajnika Organizacije.

Člen 2

Področje uporabe

To konvencijo se uporablja izključno:

(a) za škodo zaradi onesnaženja:

(i) na območju države pogodbenice, vključno s teritorialnim morjem, in

(ii) in the exclusive economic zone of a State Party, established in accordance with international law, or, if a State Party has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;

(b) to preventive measures, wherever taken, to prevent or minimize such damage.

Article 3

Liability of the shipowner

1 Except as provided in paragraphs 3 and 4, the shipowner at the time of an incident shall be liable for pollution damage caused by any bunker oil on board or originating from the ship, provided that, if an incident consists of a series of occurrences having the same origin, the liability shall attach to the shipowner at the time of the first of such occurrences.

2 Where more than one person is liable in accordance with paragraph 1, their liability shall be joint and several.

3 No liability for pollution damage shall attach to the shipowner if the shipowner proves that:

(a) the damage resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or

(b) the damage was wholly caused by an act or omission done with the intent to cause damage by a third party; or

(c) the damage was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.

4 If the shipowner proves that the pollution damage resulted wholly or partially either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the shipowner may be exonerated wholly or partially from liability to such person.

5 No claim for compensation for pollution damage shall be made against the shipowner otherwise than in accordance with this Convention.

6 Nothing in this Convention shall prejudice any right of recourse of the shipowner which exists independently of this Convention.

Article 4

Exclusions

1 This Convention shall not apply to pollution damage as defined in the Civil Liability Convention, whether or not compensation is payable in respect of it under that Convention.

2 Except as provided in paragraph 3, the provisions of this Convention shall not apply to warships, naval auxiliary or other ships owned or operated by a State and used, for the time being, only on Government non-commercial service.

3 A State Party may decide to apply this Convention to its warships or other ships described in paragraph 2, in which case it shall notify the Secretary-General thereof specifying the terms and conditions of such application.

4 With respect to ships owned by a State Party and used for commercial purposes, each State shall be subject to suit in the jurisdictions set forth in article 9 and shall waive all defences based on its status as a sovereign State.

Article 5

Incidents involving two or more ships

When an incident involving two or more ships occurs and pollution damage results therefrom, the shipowners of all the ships concerned, unless exonerated under article 3, shall be jointly and severally liable for all such damage which is not reasonably separable.

(ii) v izključni ekonomski coni države pogodbenice, določeni skladno z mednarodnim pravom ali, če država pogodbenica ni določila take cone, na območju zunaj in ob teritorialnem morju omenjene države, ki ga je navedena država določila skladno z mednarodnim pravom in se ne razteza več kot 200 navtičnih milj od temeljnih črt, od katerih se meri širina teritorialnega morja;

(b) za preventivne ukrepe, kjerkoli so sprejeti za preprečitev in čim večje zmanjšanje take škode.

Člen 3

Odgovornost lastnika ladje

1. Lastnik ladje je v trenutku nezgode odgovoren za škodo zaradi onesnaženja, ki ga je povzročilo gorivo iz rezervoarjev na krovu ladje ali z izvorom s te ladje, pod pogojem da se odgovornost v trenutku prvega takega dogodka, kadar nezgoda sestoji iz niza dogodkov istega izvora, pripiše lastniku ladje, razen kakor je predvideno z odstavkoma 3 in 4.

2. Kadar je več kot ena oseba odgovorna skladno z odstavkom 1, je njihova odgovornost solidarna.

3. Lastnik ladje ni odgovoren za škodo zaradi onesnaževanja, če dokaže:

(a) da je škoda nastala zaradi vojne, sovražnosti, državljanske vojne, vstaje ali izjemnega, neizogibnega ali neustavljivega naravnega pojava; ali

(b) da je škoda v celoti nastala zaradi dejanja ali opustitve dejanja z namenom povzročitve škode s strani tretje osebe; ali

(c) da je škoda nastala izključno zaradi malomarnosti ali drugega nezakonitega dejanja katere koli vlade ali druge oblasti, ki je odgovorna za vzdrževanje luči ali drugih navigacijskih pripomočkov pri izvajanju omenjene naloge.

4. Če lastnik ladje dokaže, da je škoda zaradi onesnaženja v celoti ali delno nastala zaradi dejanja ali opustitve dejanja z namenom povzročitve škode s strani osebe, ki je utrpela škodo, ali zaradi malomarnosti omenjene osebe, se ga lahko v celoti ali delno oprosti odgovornosti do take osebe.

5. Zahtevek za nadomestilo škode zaradi onesnaženja se lahko vloži proti lastniku ladje le skladno s to konvencijo.

6. Nič v tej konvenciji ne posega v katero koli regresno pravico lastnika ladje, ki obstaja neodvisno od te konvencije.

Člen 4

Izključitve

1. Te konvencije se ne uporablja za škodo zaradi onesnaženja, kakor je opredeljeno v Konvenciji o civilni odgovornosti, ne glede na to, ali nadomestilo škode zapade v plačilo skladno z omenjeno konvencijo.

2. Določbe te konvencije se ne uporabljajo za vojne ladje, pomožne ali druge ladje, s katerimi država upravlja ali pa je njihova lastnica in se jih trenutno uporablja le v javne, netrgovinske namene, razen kakor je predvideno v odstavku 3.

3. Država pogodbenica se lahko odloči uporabiti to konvencijo za svoje vojne ladje ali druge ladje iz odstavka 2, pri čemer o tem obvesti glavnega tajnika Konvencije in navede pogoje take uporabe.

4. Za ladje, ki so v lasti države pogodbenice in se uporabljajo v komercialne namene, se vsaka država sodno preganja v okviru pristojnosti, določenih v členu 9, in se odpove vsem sredstvom obrambe, ki izhajajo iz njenega statusa suverene države.

Člen 5

Nezgode dveh ali več ladij

Kadar pride do nezgode dveh ali več ladij in nesreča povzroči škodo zaradi onesnaženja, so lastniki vseh zadevnih ladij, razen če so oproščeni skladno s členom 3, solidarno odgovorni za vso tako škodo, ki se je ne da primerno ločiti.

Article 6

Limitation of liability

Nothing in this Convention shall affect the right of the shipowner and the person or persons providing insurance or other financial security to limit liability under any applicable national or international regime, such as the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.

Article 7

Compulsory insurance or financial security

1 The registered owner of a ship having a gross tonnage greater than 1000 registered in a State Party shall be required to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, to cover the liability of the registered owner for pollution damage in an amount equal to the limits of liability under the applicable national or international limitation regime, but in all cases, not exceeding an amount calculated in accordance with the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.

2 A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a State Party has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This certificate shall be in the form of the model set out in the annex to this Convention and shall contain the following particulars:

(a) name of ship, distinctive number or letters and port of registry;

(b) name and principal place of business of the registered owner;

(c) IMO ship identification number;

(d) type and duration of security;

(e) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established;

(f) period of validity of the certificate which shall not be longer than the period of validity of the insurance or other security.

3 (a) A State Party may authorize either an institution or an organization recognized by it to issue the certificate referred to in paragraph 2. Such institution or organization shall inform that State of the issue of each certificate. In all cases, the State Party shall fully guarantee the completeness and accuracy of the certificate so issued and shall undertake to ensure the necessary arrangements to satisfy this obligation.

(b) A State Party shall notify the Secretary-General of:

(i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognised by it;

(ii) the withdrawal of such authority; and

(iii) the date from which such authority or withdrawal of such authority takes effect.

An authority delegated shall not take effect prior to three months from the date on which notification to that effect was given to the Secretary-General.

(c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates if the conditions under which they have been issued are not maintained. In all cases the institution or organization shall report such withdrawal to the State on whose behalf the certificate was issued.

Člen 6

Omejitev odgovornosti

Nič v tej konvenciji ne vpliva na pravico lastnika ladje in osebe ali oseb, ki zagotavljajo zavarovanje ali drugo finančno jamstvo za omejitev odgovornosti skladno s katerim koli nacionalnim ali mednarodnim režimom, ki se uporablja, kot je Konvencija iz leta 1976 o omejevanju odgovornosti za pomorske zahtevke, kakor je spremenjena.

Člen 7

Obvezno zavarovanje ali finančno jamstvo

1. Registrirani lastnik ladje, katere bruto tonaža presega 1000 in je registrirana v državi pogodbenici, mora obdržati zavarovanje ali drugo finančno jamstvo, kot je garancija, ki jo izda banka ali podobna finančna ustanova, da bi kril odgovornost registriranega lastnika za škodo zaradi onesnaženja v znesku, ki je enak mejam odgovornosti po veljavnem nacionalnem ali mednarodnem režimu, toda v vsakem primeru ne presega zneska, izračunanega skladno s Konvencijo iz leta 1976 o omejevanju odgovornosti za pomorske zahtevke, kakor je spremenjena.

2. Potrdilo, ki potrjuje, da zavarovanje ali drugo finančno jamstvo velja skladno z določbami te konvencije, se izda za vsako ladjo po tem, ko ustrezni organ države pogodbenice ugotovi, da so izpolnjene zahteve odstavka 1. Za ladjo, registrirano v državi pogodbenici, izda tako potrdilo ali pa ga potrdi ustrezni organ države registracije ladje. Za ladjo, ki ni registrirana v državi pogodbenici, pa lahko izda tako potrdilo ali pa ga potrdi ustrezni organ katere koli države pogodbenice. To potrdilo je v obliki vzorčnega obrazca iz Priloge k tej konvenciji in vsebuje naslednje podatke:

(a) ime ladje, razlikovalno številko ali črke in pristanišče vpisa;

(b) ime in glavni sedež podjetja registriranega lastnika;

(c) identifikacijsko številko ladje Mednarodne pomorske organizacije;

(d) vrsto in trajanje jamstva;

(e) ime in glavni sedež poslovanja zavarovatelja ali druge osebe, ki daje jamstvo in, kadar je to primerno, kraj poslovanja, kjer je zavarovanje ali jamstvo sklenjeno;

(f) obdobje veljavnosti potrdila, ki ni daljše od obdobja veljavnosti zavarovanja ali drugega jamstva.

3 (a) Država pogodbenica lahko dovoli ustanovi ali organizaciji, ki jo ta priznava, da izdaja potrdila iz odstavka 2. Taka ustanova ali organizacija obvesti navedeno državo o izdaji vsakega potrdila. V vseh primerih država pogodbenica v celoti jamči za popolnost in točnost tako izdanega potrdila in se obveže, da bo zagotavila vse potrebno za izpolnitev te obveznosti.

(b) Država pogodbenica obvesti glavnega tajnika o:

(i) posebnih odgovornostih in pogojih pooblastila, dodeljenega ustanovi ali organizaciji, ki jo država priznava;

(ii) preklic takega pooblastila; in

(iii) datum začetka veljavnosti takega pooblastila ali preklica pooblastila.

Dodeljeno pooblastilo začne veljati šele po treh mesecih od datuma, ko je bil glavni tajnik obveščen o navedeni veljavnosti.

(c) Ustanova ali organizacija, ki ima dovoljenje za izdajo potrdil skladno s tem odstavkom, ima dovoljenje vsaj za preklic teh potrdil, če se ne izpolnjujejo pogoji, pod katerimi so bila izdana. V vseh primerih ustanova ali organizacija naznani tak preklic državi, v imenu katere je bilo potrdilo izdano.

4 The certificate shall be in the official language or languages of the issuing State. If the language used is not English, French or Spanish, the text shall include a translation into one of these languages and, where the State so decides, the official language of the State may be omitted.

5 The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authorities issuing or certifying the certificate.

6 An insurance or other financial security shall not satisfy the requirements of this article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2 of this article, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 5 of this article, unless the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this article.

7 The State of the ship's registry shall, subject to the provisions of this article, determine the conditions of issue and validity of the certificate.

8 Nothing in this Convention shall be construed as preventing a State Party from relying on information obtained from other States or the Organization or other international organisations relating to the financial standing of providers of insurance or financial security for the purposes of this Convention. In such cases, the State Party relying on such information is not relieved of its responsibility as a State issuing the certificate required by paragraph 2.

9 Certificates issued or certified under the authority of a State Party shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as certificates issued or certified by them even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the insurance certificate is not financially capable of meeting the obligations imposed by this Convention.

10 Any claim for compensation for pollution damage may be brought directly against the insurer or other person providing financial security for the registered owner's liability for pollution damage. In such a case the defendant may invoke the defences (other than bankruptcy or winding up of the shipowner) which the shipowner would have been entitled to invoke, including limitation pursuant to article 6. Furthermore, even if the shipowner is not entitled to limitation of liability according to article 6, the defendant may limit liability to an amount equal to the amount of the insurance or other financial security required to be maintained in accordance with paragraph 1. Moreover, the defendant may invoke the defence that the pollution damage resulted from the wilful misconduct of the shipowner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the shipowner against the defendant. The defendant shall in any event have the right to require the shipowner to be joined in the proceedings.

11 A State Party shall not permit a ship under its flag to which this article applies to operate at any time, unless a certificate has been issued under paragraphs 2 or 14.

12 Subject to the provisions of this article, each State Party shall ensure, under its national law, that insurance or other security, to the extent specified in paragraph 1, is in force in respect of any ship having a gross tonnage greater than 1000, wherever registered, entering or leaving a port in its territory, or arriving at or leaving an offshore facility in its territorial sea.

4. Potrdilo je v uradnem jeziku ali jezikih države izdajateljice. Če uporabljeni jezik ni angleščina, francoščina ali španščina, besedilo vključuje prevod v enega teh jezikov in, kadar država tako odloči, se lahko uradni jezik države opusti.

5. Potrdilo se hrani na krovu ladje, kopijo pa se deponira pri oblasteh, ki hranijo zapis o registraciji ladje ali, če ladja ni registrirana v državi pogodbenici, pri oblasteh, ki izdajajo ali potrjujejo potrdilo.

6. Zavarovanje ali drugo finančno jamstvo ne izpolnjuje zahtev tega člena, če lahko iz drugih razlogov kot zaradi izteka obdobja veljavnosti zavarovanja ali jamstva, določenega v potrdilu skladno z odstavkom 2 tega člena, pred potekom treh mesecev od datuma, ko so oblasti iz odstavka 5 tega člena prejele obvestilo o njegovem izteku, preneha veljati, razen če je bilo v navedenem obdobju potrdilo predano oblastem ali pa je bilo izdano novo potrdilo. Zgoraj omenjene določbe se podobno uporabljajo za katere koli spremembe, zaradi katerih zavarovanje ali jamstvo ne izpolnjuje več zahtev tega člena.

7. Država registracije ladje skladno z določbami tega člena določi pogoje za izdajo in veljavnost potrdila.

8. Nič v tej konvenciji ne predstavlja preprečevanja državi pogodbenici, da bi se opirala na podatke, ki jih je dobila od drugih držav, Organizacije ali drugih mednarodnih organizacij, o finančnem položaju ponudnikov zavarovanja ali finančnega jamstva za namene te konvencije. V takih primerih država, ki se opira na take podatke, ni razbremenjena odgovornosti kot država, ki izdaja potrdilo, skladno z odstavkom 2.

9. Potrdila, ki jih izda ali potrdi organ države pogodbenice, sprejmejo druge države pogodbenice za namene te konvencije in jih obravnavajo, kot da imajo enako veljavo kot potrdila, ki so jih izdale ali potrdile same, četudi so bila izdana ali potrjena za ladjo, ki ni registrirana v državi pogodbenici. Država pogodbenica lahko kadar koli zahteva posvetovanje z državo, ki izdaja ali potrjuje potrdila, če meni, da zavarovatelj ali garant, naveden na potrdilu o zavarovanju, ni finančno sposoben izpolniti obveznosti, ki jih nalaga ta konvencija.

10. Vsakršen zahtevek za nadomestilo škode zaradi onesnaženja se lahko vloži neposredno proti zavarovatelju ali drugi osebi, ki daje finančno jamstvo za odgovornost registriranega lastnika glede škode zaradi onesnaženja. V takem primeru lahko toženec uveljavlja sredstva obrambe (razen stečaja ali likvidacije lastnika ladje), do katerih bi bil upravičen lastnik ladje, vključno z omejitvijo skladno s členom 6. Nadalje, tudi če lastnik ladje ni upravičen do omejitve odgovornosti skladno s členom 6, lahko toženec omeji odgovornost na znesek, ki je enak znesku zavarovanja ali drugega finančnega jamstva, ki ga je treba vzdrževati skladno z odstavkom 1. Nadalje lahko toženec uveljavlja sredstva obrambe, da je škoda zaradi onesnaženja nastala zaradi namerne kršitve lastnika ladje, toda toženec ne vloži nobenega drugega ugovora, do katerega bi bil lahko upravičen v sodnih postopkih, ki bi jih lastnik ladje začel proti tožencu. Toženec ima v vsakem primeru pravico zahtevati od lastnika ladje, da se pridruži postopku.

11. Država pogodbenica dovoli ladji, ki pluje pod njeno zastavo in za katero se uporablja ta člen, obratovanje le takrat, ko je bilo izdano potrdilo skladno z odstavki 2 ali 14.

12. Ob upoštevanju določb tega člena vsaka država pogodbenica skladno s svojo nacionalno zakonodajo zagotovi, da velja v obsegu odstavka 1 zavarovanje ali drugo jamstvo za vsako ladjo, katere bruto tonaža je večja od 1000, ne glede na kraj registracije, ki vpluje v pristanišče ali izpluje iz pristanišča na njenem ozemlju ali pa pripluje do morske postaje v njenem teritorialnem morju ali odpluje od nje.

13 Notwithstanding the provisions of paragraph 5, a State Party may notify the Secretary-General that, for the purposes of paragraph 12, ships are not required to carry on board or to produce the certificate required by paragraph 2, when entering or leaving ports or arriving at or leaving from offshore facilities in its territory, provided that the State Party which issues the certificate required by paragraph 2 has notified the Secretary-General that it maintains records in an electronic format, accessible to all States Parties, attesting the existence of the certificate and enabling States Parties to discharge their obligations under paragraph 12.

14 If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authority of the State of the ship's registry stating that the ship is owned by that State and that the ship's liability is covered within the limit prescribed in accordance with paragraph 1. Such a certificate shall follow as closely as possible the model prescribed by paragraph 2.

15 A State may, at the time of ratification, acceptance, approval of, or accession to this Convention, or at any time thereafter, declare that this article does not apply to ships operating exclusively within the area of that State referred to in article 2(a)(i).

Article 8

Time limits

Rights to compensation under this Convention shall be extinguished unless an action is brought thereunder within three years from the date when the damage occurred. However, in no case shall an action be brought more than six years from the date of the incident which caused the damage. Where the incident consists of a series of occurrences, the six-years' period shall run from the date of the first such occurrence.

Article 9

Jurisdiction

1 Where an incident has caused pollution damage in the territory, including the territorial sea, or in an area referred to in article 2(a)(ii) of one or more States Parties, or preventive measures have been taken to prevent or minimise pollution damage in such territory, including the territorial sea, or in such area, actions for compensation against the shipowner, insurer or other person providing security for the shipowner's liability may be brought only in the courts of any such States Parties.

2 Reasonable notice of any action taken under paragraph 1 shall be given to each defendant.

3 Each State Party shall ensure that its courts have jurisdiction to entertain actions for compensation under this Convention.

Article 10

Recognition and enforcement

1 Any judgement given by a Court with jurisdiction in accordance with article 9 which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognised in any State Party, except:

(a) where the judgement was obtained by fraud; or

(b) where the defendant was not given reasonable notice and a fair opportunity to present his or her case.

2 A judgement recognised under paragraph 1 shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.

13. Ne glede na določbe odstavka 5 lahko država pogodbenica obvesti glavnega tajnika, da za namene odstavka 12 ladjam ni treba hraniti potrdila iz odstavka 2 na krovu ali pa ga predložiti, ko vplujejo v pristanišča ali izplujejo iz njih ali pa priplujejo do morske postaje na njenem ozemlju ali odplujejo od nje, če je država pogodbenica, ki izda potrdilo, ki se ga zahteva v odstavku 2, obvestila glavnega tajnika, da hrani podatke v elektronski obliki in so dostopni vsem državam pogodbenicam, s čimer potrjuje obstoj potrdila in omogoča državam pogodbenicam, da se razrešijo svojih obveznosti na podlagi odstavka 12.

14. Če se ne vzdržuje zavarovanja ali finančnega jamstva za ladjo, ki je v lasti države pogodbenice, se določbe tega člena v povezavi s tem ne uporabljajo za tako ladjo, ladja pa hrani potrdilo, ki ga izda ustrezni organ države, v kateri je ladja registrirana, v katerem je navedeno, da je ladja v lasti omenjene države in da je odgovornost ladje pokrita v mejah, predpisanih skladno z odstavkom 1. Tako potrdilo je čim bolj podobno predpisanemu vzorcu iz odstavka 2.

15. Država lahko v času ratifikacije, sprejetja, odobritve ali pristopa k tej konvenciji ali kadar koli kasneje izjavi, da se tega člena ne uporablja za ladje, ki plujejo izključno na območju omenjene države iz člena 2(a)(i).

Člen 8

Roki

Pravice do nadomestila škode skladno s to konvencijo ugasnejo, razen če v treh letih od datuma povzročitve škode na njeni podlagi ni vložena tožba. Vendar pa v nobenem primeru tožba ni vložena po izteku šestih let od datuma nezgode, ki je povzročila škodo. Kadar nezgoda sestoji iz niza dogodkov, začne teči šestletno obdobje od datuma prvega takega dogodka.

Člen 9

Pristojnost

1. Kadar je nezgoda povzročila škodo zaradi onesnaženja na ozemlju, vključno s teritorialnim morjem, ali na območju iz člena 2(a)(ii) ene ali več držav pogodbenic ali pa so bili sprejeti preventivni ukrepi za preprečitev ali zmanjšanje škode zaradi onesnaženja na takem ozemlju, vključno s teritorialnim morjem, ali na takem območju, se lahko vloži tožba za nadomestilo škode proti lastniku ladje, zavarovatelju ali drugi osebi, ki jamči za odgovornost lastnika ladje, le na sodiščih katere koli od teh držav pogodbenic.

2. Vsakega tožnika se v primernem času obvesti o vsaki tožbi skladno z odstavkom 1.

3. Vsaka država pogodbenica zagotovi, da imajo njena sodišča pristojnost za vodenje zahtevkov za povrnitev škode skladno s to konvencijo.

Člen 10

Priznanje in izvrševanje

1. Vsako sodbo sodišča, pristojnega v skladu s členom 9, izvršljivo v državi izvora, kjer proti njej niso več možna redna pravna sredstva, se priznava v vseh državah pogodbenicah, razen:

(a) kadar je bila sodba pridobljena z goljufijo; ali

(b) kadar toženec ni prejel primernega obvestila in ni imel prave možnosti, da bi predstavil svoj primer.

2. Sodba, priznana skladno z odstavkom 1, je izvršljiva v vsaki državi pogodbenici takoj, ko so izvedeni vsi uradni postopki, ki se zahtevajo v omenjeni državi. Ti uradni postopki ne dopuščajo ponovne odločitve v zadevi.

Article 11

Supersession Clause

This Convention shall supersede any Convention in force or open for signature, ratification or accession at the date on which this Convention is opened for signature, but only to the extent that such Convention would be in conflict with it; however, nothing in this article shall affect the obligations of States Parties to States not party to this Convention arising under such Convention.

Article 12

Signature, ratification, acceptance, approval and accession

1 This Convention shall be open for signature at the Headquarters of the Organization from 1 October 2001 until 30 September 2002 and shall thereafter remain open for accession.

2 States may express their consent to be bound by this Convention by:

(a) signature without reservation as to ratification, acceptance or approval;

(b) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or

(c) accession.

3 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

4 Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to this Convention with respect to all existing State Parties, or after the completion of all measures required for the entry into force of the amendment with respect to those State Parties shall be deemed to apply to this Convention as modified by the amendment.

Article 13

States with more than one system of law

1 If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

2 Any such declaration shall be notified to the Secretary-General and shall state expressly the territorial units to which this Convention applies.

3 In relation to a State Party which has made such a declaration:

(a) in the definition of “registered owner” in article 1(4), references to a State shall be construed as references to such a territorial unit;

(b) references to the State of a ship’s registry and, in relation to a compulsory insurance certificate, to the issuing or certifying State, shall be construed as referring to the territorial unit respectively in which the ship is registered and which issues or certifies the certificate;

(c) references in this Convention to the requirements of national law shall be construed as references to the requirements of the law of the relevant territorial unit; and

(d) references in articles 9 and 10 to courts, and to judgements which must be recognized in States Parties, shall be construed as references respectively to courts of, and to judgements which must be recognized in, the relevant territorial unit.

Člen 11

Prednostna klavzula

Ta konvencija ima prednost pred katero koli konvencijo, ki je v veljavi ali pa je na voljo za podpis, ratifikacijo ali pristop na datum, ko je ta konvencija na voljo za podpis, toda le v obsegu, v katerem bi bila taka konvencija z njo v nasprotju; vendar pa nič v tem členu ne vpliva na obveznosti držav pogodbenic, ki izhajajo iz take konvencije, do držav, ki niso pogodbenice te konvencije.

Člen 12

Podpis, ratifikacija, sprejetje, odobritev in pristop

1. Ta konvencija je na voljo za podpis na sedežu Organizacije od 1. oktobra 2001 do 30. septembra 2002, nato pa je na voljo za pristop.

2. Države lahko izrazijo svojo privolitev, da jih ta konvencija obvezuje s:

(a) podpisom brez zadržka glede ratifikacije, sprejetja ali odobritve;

(b) s pridržkom glede ratifikacije, sprejetja ali odobritve, ki mu sledi ratifikacija, sprejetje ali odobritev; ali

(c) s pristopom.

3. Ratifikacija, sprejetje, privolitev ali pristop se izvrši z deponiranjem ustrezne listine pri glavnem tajniku.

4. Katera koli listina o ratifikaciji, sprejetju, odobritvi ali pristopu, ki je bila deponirana po začetku veljavnosti spremembe te konvencije za vse obstoječe države pogodbenice ali po izpolnitvi vseh ukrepov, potrebnih za začetek veljavnosti spremembe, se šteje, da se uporablja za to konvencijo, kakor je bila spremenjena.

Člen 13

Države z več kot enim pravnim sistemom

1. Če ima država dve ali več ozemeljskih enot, v katerih se uporabljajo različni pravni sistemi v zvezi z vprašanji, ki jih obravnava ta konvencija, lahko ob podpisu, ratifikaciji, sprejetju, odobritvi ali pristopu izjavi, da se ta konvencija nanaša na vse njene ozemeljske enote ali le na eno ali več teh enot in lahko kadarkoli spremeni to izjavo s predložitvijo druge izjave.

2. O kateri koli taki izjavi se obvesti glavnega tajnika in v njej morajo biti izrecno navedene ozemeljske enote, za katere ta konvencija velja.

3. Glede države pogodbenice, ki je podala tako izjavo:

(a) se pri opredelitvi »registriranega lastnika« v členu 1(4) sklicevanja na državo razumejo kot sklicevanja na tako ozemeljsko enoto;

(b) se sklicevanja na državo, v kateri je ladja registrirana, in, glede obveznega potrdila o zavarovanju, na državo, ki izdaja ali potrjuje potrdila, razumejo, kot da se nanašajo na ozemeljsko enoto, v kateri je ladja registrirana oziroma katera izdaja ali potrjuje potrdilo;

(c) se sklicevanja v tej konvenciji na zahteve nacionalne zakonodaje razumejo kot sklicevanja na zahteve zakonodaje ustrezne ozemeljske enote; in

(d) se sklicevanja v členih 9 in 10 na sodišča in na sodbe, ki morajo biti priznane v državah pogodbenicah, razlagajo kot sklicevanja na sodišča v ustrezni ozemeljski enoti in na sodbe, ki morajo biti v njej priznane.

Article 14

Entry into Force

1 This Convention shall enter into force one year following the date on which eighteen States, including five States each with ships whose combined gross tonnage is not less than 1 million, have either signed it without reservation as to ratification, acceptance or approval or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General.

2 For any State which ratifies, accepts, approves or accedes to it after the conditions in paragraph 1 for entry into force have been met, this Convention shall enter into force three months after the date of deposit by such State of the appropriate instrument.

Article 15

Denunciation

1 This Convention may be denounced by any State Party at any time after the date on which this Convention comes into force for that State.

2 Denunciation shall be effected by the deposit of an instrument with the Secretary-General.

3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General.

Article 16

Revision or amendment

1 A conference for the purpose of revising or amending this Convention may be convened by the Organization.

2 The Organization shall convene a conference of the States Parties for revising or amending this Convention at the request of not less than one-third of the States Parties.

Article 17

Depositary

1 This Convention shall be deposited with the Secretary-General.

2 The Secretary-General shall:

(a) inform all States which have signed or acceded to this Convention of:

(i) each new signature or deposit of instrument together with the date thereof;

(ii) the date of entry into force of this Convention;

(iii) the deposit of any instrument of denunciation of this Convention together with the date of the deposit and the date on which the denunciation takes effect; and

(iv) other declarations and notifications made under this Convention.

(b) transmit certified true copies of this Convention to all Signatory States and to all States which accede to this Convention.

Article 18

Transmission to United Nations

As soon as this Convention comes into force, the text shall be transmitted by the Secretary-General to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 19

Languages

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this twenty-third day of March, two thousand and one.

IN WITNESS WHEREOF the undersigned being duly authorised by their respective Governments for that purpose have signed this Convention.

Člen 14

Začetek veljavnosti

1. Ta konvencija začne veljati eno leto po datumu, ko jo osemnajst držav, vključno s petimi državami, katerih ladje imajo skupno bruto tonažo najmanj 1 milijon, podpiše brez pridržkov glede ratifikacije, sprejetja ali odobritve ali ko pri glavnem tajniku deponirajo listine o ratifikaciji, sprejetju, odobritvi ali pristopu.

2. Za katero koli državo, ki ratificira, sprejme, odobri ali pristopi k tej konvenciji po tem, ko so bili izpolnjeni pogoji iz odstavka 1 za začetek veljavnosti, prične ta konvencija veljati tri mesece po datumu deponiranja ustrezne listine take države.

Člen 15

Odpoved

1. To konvencijo lahko katera koli država pogodbenica odpove kadarkoli po datumu začetka veljave te konvencije v navedeni državi.

2. Odpoved se izvrši z deponiranjem ustrezne listine pri glavnem tajniku.

3. Odpoved začne veljati eno leto po deponiranju pri glavnem tajniku ali po daljšem obdobju, ki je lahko določen na odpovedni listini.

Člen 16

Revizija ali sprememba

1. Organizacija lahko skliče konferenco za revizijo ali spremembe te konvencije.

2. Organizacija skliče konferenco držav pogodbenic za revizijo ali spremembo te konvencije na zahtevo vsaj ene tretjine držav pogodbenic.

Člen 17

Depozitar

1. Ta konvencija se deponira pri glavnem tajniku.

2. Glavni tajnik:

(a) obvesti vse države, ki so podpisale ali pristopile k tej konvenciji, o:

(i) vsakem novem podpisu ali deponiranju listine, skupaj z datumom;

(ii) datumu začetka veljavnosti te konvencije;

(iii) deponiranju katere koli listine o odpovedi te konvencije, skupaj z datumom deponiranja in datumomzačetka veljavnosti odpovedi; in

(iv) drugih izjavah in obvestilih, podanih v okviru te konvencije.

(b) pošlje overjene kopije te konvencije vsem državam podpisnicam in vsem državam, ki pristopijo k tej konvenciji.

Člen 18

Pošiljanje Združenim narodom

Takoj, ko začne ta konvencija veljati, glavni tajnik pošlje besedilo Sekretariatu Združenih narodov za registracijo in objavo skladno s členom 102 listine Združenih narodov.

Člen 19

Jeziki

Ta konvencija je sestavljena v enem izvirniku v arabskem, kitajskem, angleškem, francoskem, ruskem in španskem jeziku, pri čemer so besedila v vseh jezikih enako verodostojna.

V LONDONU, triindvajsetega marca, dva tisoč ena.

V POTRDITEV TEGA so spodaj podpisani predstavniki, ki so jih njihove vlade v ta namen pravilno pooblastile, podpisali to konvencijo.

ANNEX

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY
IN RESPECT OF CIVIL LIABILITY FOR BUNKER OIL POLLUTION DAMAGE

Issued in accordance with the provisions of article 7 of the
International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001

Name of Ship	Distinctive Number or letters	IMO Ship Identification Number	Port of Registry	Name and full address of the principal place of business of the registered owner

This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001.

Type of Security .....

Duration of Security .....

Name and address of the insurer(s)and/or guarantor(s)

Name .....

Address .....

.....

This certificate is valid until .....

Issued or certified by the Government of .....

.....

(Full designation of the State)

OR

The following text should be used when a State Party avails itself of article 7(3)

The present certificate is issued under the authority of the Government of …..(full designation of the State) by……(name of institution or organization)

At ..... On .....
(Place) (Date)

.....
(Signature and Title of issuing or certifying official)

Explanatory Notes:

1. If desired, the designation of the State may include a reference to the competent public authority of the country where the Certificate is issued.
2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
3. If security is furnished in several forms, these should be enumerated.
4. The entry “Duration of Security” must stipulate the date on which such security takes effect.
5. The entry “Address” of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.

PRILOGA

POTRDILO ZAVAROVANJA ALI DRUGEGA FINANČNEGA JAMSTVA GLEDE CIVILNE ODGOVORNOSTI ZA ŠKODO, KI JO POVZROČI ONESNAŽENJE Z GORIVOM IZ LADIJSKIH REZERVOARJEV

Izdano skladno z določbami člena 7 Mednarodne konvencije o civilni odgovornosti za škodo, ki jo povzroči onesnaženje z gorivom iz ladijskih rezervoarjev iz leta 2001

Ime ladje	Razlikovalna številka ali črke	Številka Mednarodne pomorske organizacije za identifikacijo ladje	Pristanišče vpisa	Ime in polni naslov glavnega sedeža registriranega lastnika

To potrdilo dokazuje, da za zgoraj omenjeno ladjo velja zavarovalna polica ali drugo finančno jamstvo, ki izpolnjuje pogoje člena 7 Mednarodne konvencije o civilni odgovornosti za škodo, nastalo zaradi onesnaženja z gorivom iz ladijskih rezervoarjev iz leta 2001.

Vrsta jamstva .....

Trajanje jamstva .....

Ime in naslov zavarovatelja/zavarovateljev in/ali garanta/garantov

Ime .....

Naslov .....

.....

To potrdilo je veljavno do .....

Izdala ali potrdila ga je Vlada .....

.....

(Celotno poimenovanje države)

ALI

Naslednje besedilo se uporabi, kadar država pogodbenica izkorišča člen 7(3).

To potrdilo je izdano po pooblastilu Vlade..... (Celotno poimenovanje države)
s strani ..... (ime ustanove ali organizacije)

V ....
(Kraj) (Datum)

.....
(Podpis in naziv uradnika, ki izdaja ali potrjuje)

Pojasnila:

1. Po želji lahko določitev države vključuje sklic na pristojni javni organ države, kjer je bilo potrdilo izdano.
2. Če celotni znesek jamstva izvira iz več kot enega vira, je treba navesti znesek vsakega od njih.
3. Če je jamstvo v več oblikah, je treba našteti vse.
4. Vpis "Trajanje jamstva" mora določati datum, ko začne veljati tako jamstvo.
5. Vpis "Naslov" zavarovatelja/zavarovateljev in/ali garanta/garantov mora navajati glavni sedež zavarovatelja/zavarovateljev in/ali garanta/garantov. Če je primerno, se navede kraj poslovanja, kjer je sklenjeno zavarovanje ali drugo jamstvo.

3. člen

Za izvajanje konvencije skrbi Ministrstvo za promet.

4. člen

Ob predložitvi listine o ratifikaciji konvencije Republika Slovenija v skladu s sklepom Sveta št. 2002/762/ES poda Evropskemu Svetu in Evropski komisiji izjavo, ki se v slovenskem jeziku glasi:

»Sodbe o zadevah, za katere velja Konvencija, se, kadar jih izda sodišče v katerikoli državi članici, za katero se uporablja sklep Sveta z dne 19. 9. 2002, ki države članice pooblašča, da v interesu Skupnosti podpišejo ali ratificirajo Mednarodno konvencijo o civilni odgovornosti za škodo, ki jo povzroči onesnaženje z gorivom, 2001 (2002/762/ES), ali k njej pristopijo, razen v Republiki Sloveniji in na Danskem, priznajo in izvršijo v Republiki Sloveniji, skladno z ustreznimi notranjimi pravili Skupnosti o tej zadevi.«

5. člen

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

Št. 802-06/04-11/1
Ljubljana, dne 9. aprila 2004
EPA 1215-III

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

45. **Zakon o ratifikaciji Konvencije o statutu Evropskih šol (MKSEŠ)**

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

U K A Z
O RAZGLASITVI ZAKONA O RATIFIKACIJI KONVENCIJE O STATUTU EVROPSKIH ŠOL (MKSEŠ)

Razglašam Zakon o ratifikaciji Konvencije o statutu Evropskih šol (MKSEŠ), ki ga je sprejel Državni zbor Republike Slovenije na seji 9. aprila 2004.

Št. 001-22-66/04
Ljubljana, dne 19. aprila 2004

Predsednik
Republike Slovenije
dr. Janez Drnovšek l. r.

Z A K O N
O RATIFIKACIJI KONVENCIJE O STATUTU EVROPSKIH ŠOL (MKSEŠ)

1. člen

Ratificira se Konvencija o statutu Evropskih šol, podpisana v Luxembourgu 21. junija 1994.

2. člen

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

C O N V E N T I O N
DEFINING THE STATUTE OF THE EUROPEAN SCHOOLS

PREAMBLE

THE HIGH CONTRACTING PARTIES, MEMBERS OF THE EUROPEAN COMMUNITIES AND THE EUROPEAN COMMUNITIES, hereinafter referred to as “the Contracting Parties”;

considering that, for the education together of children of the staff of the European Communities in order to ensure the proper functioning of the European Institutions, establishments bearing the name “European School”, have been set up from 1957 onwards;

considering that the European Communities are anxious to ensure the education together of these children and, for this purpose, make a contribution to the budget of the European Schools;

considering that the European School system is “sui generis”; considering that it constitutes a form of cooperation between the Member States and between them and the European Communities while fully acknowledging the Member States' responsibility for the content of teaching and the organization of their educational system, and for their cultural and linguistic diversity;

considering that:

– the Statute of the European School, adopted in 1957, should be consolidated to take account of all the relevant texts adopted by the Contracting Parties;

– it should be adapted, taking into account the development of the European Communities;

– the decision-making procedure within the organs of the Schools should be modified;

– experience in the operation of the Schools should be taken into account;

– adequate legal protection against acts of the Board of Governors or the Administrative Boards should be provided to the teaching staff as well as other persons covered by it; to this end a Complaints Board should be created, with strictly limited jurisdiction;

K O N V E N C I J A
O STATUTU EVROPSKIH ŠOL

PREAMBULA

VISOKE POGODBENICE, ČLANICE EVROPSKIH SKUPNOSTI IN EVROPSKE SKUPNOSTI, v nadaljnjem besedilu »pogodbenice«,

SO SE

glede na to, da se zaradi zagotovitve ustreznega delovanja evropskih institucij od leta 1957 naprej za skupno izobraževanje otrok osebja Evropskih skupnosti ustanavljajo zavodi z imenom »Evropska šola«;

glede na to, da si Evropske skupnosti prizadevajo zagotoviti skupno izobraževanje teh otrok in v ta namen prispevajo v proračun Evropskih šol;

ob upoštevanju, da je sistem Evropskih šol sistem posebne vrste; glede na to, da predstavlja obliko sodelovanja med državami članicami ter med njimi in Evropskimi skupnostmi, in hkrati v celoti priznava odgovornost držav članic za vsebino poučevanja in organizacijo njihovega izobraževalnega sistema ter za njihovo kulturno in jezikovno raznolikost;

glede na to, da:

– bi morali pripraviti prečiščeno besedilo Statuta Evropske šole, sprejetega leta 1957, da bo upošteval vsa ustrezna besedila, ki so jih sprejele pogodbenice;

– bi ga morali prilagoditi z upoštevanjem razvoja Evropskih skupnosti;

– bi bilo treba spremeniti postopek odločanja v organih šol;

– bi morali pri tem upoštevati izkušnje v delovanju šol;

– bi morali zagotoviti ustrezno pravno varstvo učnega osebja in drugih delavcev, ki jih zajema Statut, pred odločbami Sveta guvernerjev ali upravnih odborov šol; v ta namen bi morali ustanoviti Odbor za pritožbe s strogo omejeno pristojnostjo;

– the jurisdiction of the Complaints Board will be without prejudice to national courts' jurisdiction in relation to civil and criminal liability;

considering that a School has been opened in Munich on the basis of the Supplementary Protocol of 15 December 1975 for the education together of children of the staff of the European Patent Organization,

HAVE AGREED AS FOLLOWS:

TITLE I
THE EUROPEAN SCHOOLS

Article 1

This Convention defines the Statute of the European Schools (hereinafter referred to as “Schools”).

The purpose of the Schools is to educate together children of the staff of the European Communities. Besides the children covered by the Agreements provided for in Articles 28 and 29, other children may attend the Schools within the limits set by the Board of Governors.

The Schools are listed in Annex I, which may be amended by the Board of Governors to take account of decisions made under Articles 2, 28 and 31.

Article 2

1. The Board of Governors, acting unanimously, may decide to establish new Schools.

2. It shall determine their location in agreement with the host Member State.

3. Before a new School is opened in the territory of a Member State, an Agreement must be concluded between the Board of Governors and the host Member State concerning the free provision and maintenance of suitable premises for the new School.

Article 3

1. The instruction given in each School shall cover the course of studies up to the end of secondary school.

It may comprise:

– a nursery school;

– five years of primary school;

– seven years of secondary school.

Technical education requirements shall as far as possible be covered by the Schools in cooperation with the education system of the host country.

2. Instruction shall be provided by teachers seconded or assigned by the Member States in accordance with decisions taken by the Board of Governors under the procedure laid down in Article 12 (4).

3. (a) Any proposal to modify the fundamental structure of a School shall require a unanimous vote of the Member State representatives on the Board of Governors.

(b) Any proposal to modify the official status of the teachers shall require a unanimous vote of the Board of Governors.

Article 4

The education given in the Schools shall be organized on the following principles:

1. the courses of study shall be undertaken in the languages specified in Annex II;

2. that Annex may be amended by the Board of Governors to take account of decisions taken under Articles 2 and 32;

3. in order to encourage the unity of the School, to bring pupils of the different language sections together and to foster mutual understanding, certain subjects shall be taught to joint classes of the same level. Any Community language may be used for these joint classes, insofar as the Board of Governors decides that circumstances justify its use;

– pristojnost odbora za pritožbe v zvezi s civilnopravno in kazensko odgovornostjo ne bo posegala v pristojnost nacionalnih sodišč;

glede na to, da je bila na podlagi Dopolnilnega protokola z dne 15. decembra 1975 v Münchnu odprta šola za skupno izobraževanje otrok delavcev v Evropski patentni organizaciji,

DOGOVORILE O NASLEDNJEM:

NASLOV 1
EVROPSKE ŠOLE

Člen 1

Ta konvencija opredeljuje Statut Evropskih šol (v nadaljnjem besedilu »šole«).

Namen šol je skupaj izobraževati otroke delavcev v Evropskih skupnostih. Poleg otrok, ki jih zajemajo v sporazumi, predvideni v členih 28 in 29, lahko šole obiskujejo tudi drugi otroci, v mejah, ki jih določi svet guvernerjev.

Šole so naštete v Prilogi I, ki jo svet guvernerjev lahko spremeni, da bi upošteval sklepe, sprejete po členih 2, 28 in 31.

Člen 2

1. Svet guvernerjev lahko soglasno odloča o ustanovitvi novih šol.

2. Sedež šole določi v soglasju z državo članico gostiteljico.

3. Pred odprtjem nove šole na ozemlju države članice mora biti med svetom guvernerjev in državo članico gostiteljico sklenjen dogovor o brezplačni zagotovitvi in vzdrževanju primernih prostorov za novo šolo.

Člen 3

1. Pouk, zagotovljen na vsaki šoli, obsega izobraževalne programe do konca sekundarnega izobraževanja.

Obsega lahko:

– predšolsko izobraževanje;

– pet let primarnega izobraževanja;

– sedem let sekundarnega izobraževanja.

Kolikor je mogoče, zajemajo tehnične zahteve glede izobraževanja šole v sodelovanju z izobraževalnim sistemom države gostiteljice.

2. Pouk izvajajo učitelji, začasno premeščeni ali dodeljeni iz držav članic, v skladu s sklepi, ki jih svet guvernerjev sprejme po postopku iz člena 12(4).

3. (a) Za vsak predlog o spremembi temeljne sestave šole je potreben soglasno izglasovan sklep predstavnikov držav članic v svetu guvernerjev.

(b) Za vsak predlog o spremembi uradnega statusa učiteljev je potreben soglasno izglasovan sklep sveta guvernerjev.

Člen 4

Izobraževanje v šolah se organizira po naslednjih načelih:

1. izobraževalni programi se izvajajo v jezikih, določenih v Prilogi II;

2. svet guvernerjev lahko spremeni to prilogo, da bi upošteval sklepe, sprejete po členih 2 in 32;

3. za spodbujanje enotnosti šole, zbliževanje učencev različnih jezikovnih oddelkov in pospeševanje medsebojnega razumevanja se nekateri predmeti poučujejo v skupnih razredih na isti ravni. Za pouk v skupnih razredih se lahko uporablja kateri koli jezik Skupnosti, če svet guvernerjev odloči, da okoliščine upravičujejo njegovo uporabo;

4. a particular effort shall be made to give pupils a thorough knowledge of modern languages;

5. the European dimension shall be developed in the curricula;

6. in education and instruction, the conscience and convictions of individuals shall be respected;

7. measures shall be taken to facilitate the reception of children with special educational needs.

Article 5

1. Years of study seccessfully completed at the School and diplomas and certificates in respect thereof shall be recognized in the territory of the Member States, in accordance with a table of equivalence, under conditions determined by the Board of Governors as laid down in Article 11 and subject to the agreement of the competent national authorities.

2. The European baccalaureate, which is the subject of the Agreement of 11 April 1984 amending the Annex to the Statute of the European School laying down the regulations for the European baccalaureate, hereafter referred to as the "European baccalaureate Agreement", shall be awarded upon completion of the cycle of secondary studies. The Board of Governors, acting by a unanimous vote of the Member State representatives, shall be able to make any adaptations to that Agreement which may prove necessary.

Holders of the European baccalaureate obtained at the School shall:

(a) enjoy, in the Member State of which they are nationals, all the benefits attaching to the possession of the diploma or certificate awarded at the end of secondary school education in that country;

(b) be entitled to seek admission to any university in the territory of any Member State on the same terms as nationals of that Member State with equivalent qualifications.

For the purposes of this Convention, the word "university" applies to:

(a) universities;

(b) institutions regarded as of university standing by the Member State in whose territory they are situated.

Article 6

Each School shall have the legal personality necessary for the attainment of its purpose, as defined in Article 1. It shall for that purpose be free to manage the appropriations in its own section of the budget under the conditions laid down in the Financial Regulation referred to in Article 13 (1). It may be a party to legal proceedings. It may in particular acquire and dispose of movable and immovable property.

As far as its rights and obligations are concerned, the School shall be treated in each Member State, subject to the specific provisions of this Convention, as an educational establishment governed by public law.

TITLE II
ORGANS OF THE SCHOOLS

Article 7

The organs common to all the Schools shall be:

1. the Board of Governors;
2. the Secretary-General;
3. the Boards of Inspectors;
4. the Complaints Board;

Each School shall be administered by the Administrative Board and managed by the Headteacher.

4. šola si zlasti prizadeva dati učencem temeljito znanje modernih jezikov;

5. kurikuli razvijajo evropsko razsežnost;

6. pri izobraževanju in poučevanju se spoštuje vest in prepričanje posameznika;

7. sprejmejo se ukrepi za lajšanje sprejemanja otrok s posebnimi izobraževalnimi potrebami.

Člen 5

1. Uspešno zaključena leta šolanja v šoli, diplome in spričevala v zvezi s tem se priznavajo na ozemlju držav članic v skladu s preglednico o enakovrednosti šolanja, pod pogoji, ki jih v skladu s členom 11 določi svet guvernerjev, in v soglasju s pristojnimi nacionalnimi organi.

2. Evropska matura, ki je predmet Sporazuma z dne 11. aprila 1984 o spremembi Priloge k Statutu Evropske šole, ki določa pravila za Evropsko maturo, v nadaljnjem besedilu »Sporazum o evropski maturi«, se prizna ob zaključku sekundarnega izobraževanja. Svet guvernerjev lahko po potrebi s soglasjem predstavnikov držav članic prilagodi Sporazum.

Imetniki evropske mature, pridobljene na tej šoli:

(a) v državah članicah, katerih državljani so, uživajo vse ugodnosti, ki izvirajo iz imetja diplome ali spričevala, priznanega ob zaključku sekundarnega izobraževanja v navedeni državi;

(b) so upravičeni do prijave za sprejem na katero koli univerzo na ozemlju države članice pod enakimi pogoji kakor državljani navedene države članice z enakovrednimi kvalifikacijami.

V tej konvenciji izraz »univerza« pomeni:

(a) univerze;

(b) institucije, ki jih država članica, na ozemlju katere so, obravnava enako kakor univerzo.

Člen 6

Vsaka šola je pravna oseba, kolikor je to potrebno za uresničevanje njenih ciljev, opredeljenih v členu 1. V ta namen prosto upravlja z dodeljenimi sredstvi v svojem proračunskem deležu po pogojih iz Finančne uredbe, navedene v členu 13(1). Lahko je stranka v sodnem postopku. Zlasti lahko pridobi in odsvoji premičnine in nepremičnine.

Kar zadeva njene pravice in dolžnosti, se šola v vsaki državi članici obravnava kot izobraževalna institucija javnega prava, s pridržkom posebnih določb te konvencije.

NASLOV II
ORGANI ŠOL

Člen 7

Vse šole imajo naslednje skupne organe:

1. svet guvernerjev;
2. glavni tajnik;
3. odbora inšpektorjev;
4. odbor za pritožbe.

Vsako šolo upravlja upravni odbor in jo vodi ravnatelj.

CHAPTER I
The Board of Governors

Article 8

1. Subject to Article 28, the Board of Governors shall consist of the following members:

(a) the representative or representatives at ministerial level of each of the Member States of the European Communities authorised to commit the Government of that Member State, on the understanding that each Member State has only one vote;

(b) a member of the Commission of the European Communities;

(c) a representative designated by the Staff Committee (from among the teaching staff) in accordance with Article 22;

(d) a representative of the pupils' parents designated by the Parents' associations in accordance with Article 23.

2. The representatives at ministerial level of each of the Member States and the member of the Commission of the European Communities may appoint persons to represent them. Other members who are unable to attend shall be represented by their alternates.

3. A representative of the pupils may be invited to attend meetings of the Board of Governors as an observer for items concerning the pupils.

4. The Board of Governors shall be convened by its Chairman, on his own initiative or at the reasoned request of three members of the Board of Governors or of the Secretary-General. It shall meet at least once a year.

5. The office of Chairman shall be held for one year by a representative of each Member State in turn, in the following order of Member States: Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, Netherlands, Portugal, United Kingdom.

Article 9

1. Save in cases where unanimity is required by this Convention, decisions of the Board of Governors shall be adopted by a two-thirds majority of the members comprising it, subject to the following provisions:

(a) adoption of a decision affecting the specific interests of a Member State, such as the significant extension of the premises or the closure of a School established in its territory, shall require a favourable vote by the representative of that Member State;

(b) the closure of a School shall require a favourable vote by the Member of the Commission;

(c) the representative of an organization governed by public law who has obtained a seat and a vote on the Board of Governors pursuant to an agreement based on Article 28 shall vote on all matters relating to the School covered by such agreement;

(d) the right to vote of the representative of the Staff Committee mentioned in Article 8 (1) (c) and the representative of the pupils' parents mentioned in Article 8 (1) (d) shall be restricted to the adoption of decisions on educational matters under Article 11, with the exclusion of decisions concerning adaptations to the European baccalaureate Agreement and decisions having financial or budgetary effects.

2. In cases where unanimity is required by this Convention, the adoption of decisions of the Board of Governors shall not be prevented by abstentions by members who are present or represented.

3. In all voting, each of the members present or represented shall have one vote, whithout prejudice to the specific provision in Article 8 (1) (a).

POGLAVJE 1
Svet guvernerjev

Člen 8

1. S pridržkom člena 28 svet guvernerjev sestavljajo:

(a) predstavnik ali predstavniki na ministrski ravni vsake države članice v Evropskih skupnostih, pooblaščen za prevzemanje obveznosti v imenu vlade svoje države članice, pri čemer se razume, da ima vsaka država članica samo en glas;

(b) član Komisije Evropskih skupnosti;

(c) predstavnik, ki ga v skladu s členom 22 določi odbor delavcev (izmed učnega osebja);

(d) predstavnik staršev učencev, ki ga v skladu s členom 23 določijo združenja staršev.

2. Predstavniki na ministrski ravni vsake države članice in član Komisije Evropskih skupnosti lahko imenujejo osebe, ki jih predstavljajo. Druge člane, ki ne morejo biti navzoči, predstavljajo njihovi namestniki.

3. Predstavnik učencev je lahko povabljen na sestanke sveta guvernerjev kot opazovalec v tistih točkah dnevnega reda, ki zadevajo učence.

4. Svet guvernerjev skliče njegov predsednik na lastno pobudo ali na utemeljeno zahtevo treh članov sveta guvernerjev ali glavnega tajnika. Sestane se vsaj enkrat letno.

5. Predsedstvo izmenično prevzame predstavnik vsake države članice za dobo enega leta v naslednjem vrstnem redu držav članic: Belgija, Danska, Nemčija, Grčija, Španija, Francija, Irska, Italija, Luksemburg, Nizozemska, Portugalska, Združeno kraljestvo.

Člen 9

1. Razen v primerih, za katere ta konvencija zahteva soglasje, svet guvernerjev sprejema sklepe z dvotretjinsko večino svojih članov, s pridržkom naslednjih določb:

(a) za sprejetje sklepov, ki vplivajo na posebne interese države članice, kakršno je na primer pomembno povečanje prostorov ali zaprtje šole, ustanovljene na njenem ozemlju, se zahteva, da zanj glasuje predstavnik navedene države članice;

(b) za zaprtje šole se zahteva, da zanj glasuje član Komisije;

(c) predstavnik organizacije javnega prava, ki je na podlagi sporazuma po členu 28 dobil sedež in glas v svetu guvernerjev, glasuje o vseh zadevah v zvezi s šolo, ki je predmet takega sporazuma;

(d) pravica do glasovanja predstavnika odbora delavcev, navedena v členu 8(1)(c), in predstavnika staršev učencev, navedena v členu 8(1)(d), je omejena na sprejetje sklepov o izobraževalnih zadevah po členu 11, razen sklepov o prilagoditvi Sporazuma o evropski maturi in sklepov s finančnimi ali proračunskimi posledicami.

2. V primerih, ko se s to konvencijo zahteva soglasje, vzdržani glasovi navzočih ali predstavljanih članov ne preprečujejo sprejetja sklepov sveta guvernerjev.

3. Brez poseganja v posebne določbe člena 8(1)(a) ima pri vsakem glasovanju vsak navzoči ali predstavljani član en glas.

Article 10

The Board of Governors shall supervise the implementation of this Convention; for this purpose, it shall have the necessary decision-making powers in educational, budgetary and administrative matters, and for the negotiation of the Agreements referred to in Articles 28 to 30. It may set up committees with responsibility for preparing its decisions.

The Board of Governors shall lay down the General Rules of the Schools.

The Board of Governors shall each year draw up, on the basis of a draft prepared by the Secretary-General, a report on the operation of the Schools and shall forward it to the European Parliament and to the Council.

Article 11

In educational matters, the Board of Governors shall determine which studies shall be undertaken and how they shall be organized. In particular, following the opinion of the appropriate Board of Inspectors, it shall:

1. adopt harmonized curricula and timetables for each year's studies and for each section which it has set up and make recommendations as to which methods should be used;

2. provide for supervision of the teaching by the Boards of Inspectors and fix the operating rules of the latter;

3. determine the age for entry to the different levels. It shall lay down rules for the promotion of pupils to the next year of study or to the secondary school and, in order to enable pupils to return at any time to their national schools, rules for the validation of years of study at the School in accordance with Article 5. It shall draw up the table of equivalence referred to in Article 5 (1);

4. arrange for examinations to be held as a means of certifying the work done in the School; it shall lay down rules for the examinations, appoint examining boards and award diplomas. It shall ensure that the papers for the examination are set at such a level as to give effect to the provisions of Article 5.

Article 12

In administrative matters, the Board of Governors shall:

1. lay down the Service Regulations for the Secretary-General, the Headteachers, the teaching staff and, in accordance with Article 9 (1) (a), for the administrative and ancillary staff;

2. appoint the Secretary-General and Deputy Secretary-General;

3. appoint the Headteacher and Deputy Headteachers of each School;

4. (a) determine each year, on a proposal from the Boards of Inspectors, the teaching staff requirements by creating or eliminating posts. It shall ensure a fair allocation of posts among the Member States. It shall settle with the Governments questions relating to the assignment or secondment of the secondary school teachers, primary school teachers and education counsellors of the School. Staff shall retain promotion and retirement rights guaranteed by their national rules;

(b) determine each year, on a proposal from the Secretary-General, the administrative and ancillary staff requirements;

5. organize its operation and draw up its own Rules of Procedure.

Article 13

1. In budgetary matters, the Board of Governors shall:

(a) adopt the Financial Regulation, specifying in particular the procedure for establishing and implementing the budget of the Schools;

Člen 10

Svet guvernerjev nadzira izvajanje te konvencije; v ta namen ima potrebna pooblastila za odločanje v izobraževalnih, proračunskih in upravnih zadevah ter pooblastila za pogajanje o sporazumih, navedenih v členih 28 do 30. Ustanovi lahko odbore, ki so odgovorni za pripravo njegovih sklepov.

Svet guvernerjev določi splošni šolski pravilnik.

Svet guvernerjev na podlagi osnutka, ki ga pripravi glavni tajnik, vsako leto pripravi poročilo o delovanju šol ter z njim seznani Evropski parlament in Svet.

Člen 11

Svet guvernerjev v zvezi z izobraževalnimi zadevami odloči o tem, kateri programi se izvajajo in kako se organizirajo. Ob upoštevanju mnenja ustreznega odbora inšpektorjev zlasti:

1. sprejema usklajene kurikule in urnike za vsak letnik in za vsak oddelek, ki ga je ustanovil, ter daje priporočila glede uporabe metod;

2. zagotovi nadzor nad poučevanjem, ki ga izvajajo odbori inšpektorjev, in poskrbi za pravila njihovega delovanja;

3. določi vpisno starost za različne stopnje. Določi pravila za napredovanje učencev v višji letnik ali v sekundarno izobraževanje ter pravila za potrditev letnikov, opravljenih na šoli, v skladu s členom 5, s čimer se učencem omogoči, da se lahko kadar koli vrnejo v svoje nacionalne šole. Sestavi preglednico enakovrednosti šolanja, navedeno v členu 5(1);

4. pripravi izpite, ki jih je treba opraviti za potrditev dela, opravljenega na šoli; določi izpitni pravilnik, imenuje izpitne komisije in podeljuje diplome. Zagotovi, da je raven izpitnih nalog v skladu z določbami člena 5.

Člen 12

Svet guvernerjev v zvezi z upravnimi zadevami:

1. določi pravila o delu glavnega tajnika, ravnateljev, učnega osebja ter v skladu s členom 9(1)(a) o delu upravnega in pomožnega osebja;

2. imenuje glavnega tajnika in namestnika glavnega tajnika;

3. imenuje ravnatelja in namestnike ravnatelja vsake šole;

4. (a) na predlog odbora inšpektorjev vsako leto z odpiranjem ali ukinjanjem delovnih mest določi potrebe po učnem osebju. Zagotavlja nepristransko porazdelitev delovnih mest med državami članicami. Z vladami ureja vprašanja, ki se nanašajo na dodelitev ali začasno premestitev v primarnem in sekundarnem izobraževanju ter svetovalnih delavcev šole. Delavci ohranijo pravice do napredovanja in upokojitve, ki jim jih zagotavljajo njihovi nacionalni predpisi;

(b) na predlog glavnega tajnika vsako leto določi potrebe po upravnem in pomožnem osebju;

5. organizira svoje delovanje in sprejme svoj poslovnik.

Člen 13

1. Svet guvernerjev v zvezi s proračunom:

(a) sprejme Finančno uredbo, ki zlasti podrobno določa postopek za pripravo in izvrševanje proračuna šol;

(b) adopt the budget of the Schools for each financial year, in accordance with paragraph 4 below;

(c) approve the annual revenue and expenditure account and forward it to the competent authorities of the European Communities.

2. The Board of Governors shall, by no later than 30 April of each year, establish an estimate of revenue and expenditure of the Schools for the following financial year and forward it forthwith to the Commission, which shall, on that basis, establish the necessary forecasts in the preliminary draft general budget of the European Communities.

The budgetary authority of the European Communities shall fix the amount of the European Communities' contribution under its budgetary procedure.

3. The Board of Governors shall also forward the estimate of revenue and expenditure to the other organizations governed by public law provided for in Article 28 and to the organizations or institutions provided for in Article 29, whose financial contribution is such as to finance the bulk of a School's budget, so that they may determine the amount of their contributions.

4. The Board of Governors shall finally adopt the budget of the Schools before the start of the budgetary year and shall adapt it if necessary to the contributions of the European Communities and of the organizations or institutions referred to in paragraph 3.

Article 14

The Secretary-General shall represent the Board of Governors and direct the Secretariat in accordance with the Service Regulations for the Secretary-General provided for in Article 12 (1). He shall represent the Schools in legal proceedings. He shall be responsible to the Board of Governors.

CHAPTER 2
The Boards of Inspectors

Article 15

Two Boards of Inspectors shall be set up for the purposes of the Schools: one for the nursery schools and the primary schools, the other for the secondary schools.

Article 16

Each Member State which is a Contracting Party shall be represented by one Inspector on each Board. He shall be appointed by the Board of Governors on a proposal from the Party concerned.

The Boards of Inspectors shall be chaired by the representative on the Board of Inspectors of the Member State which holds the chairmanship of the Board of Governors.

Article 17

It shall be the task of the Boards of Inspectors to ensure the quality of the education provided by the Schools and to this end to ensure that the requisite inspections are carried out in the Schools.

They shall submit to the Board of Governors the opinions and proposals provided for in Articles 11 and 12 respectively and, if need be, proposals for changes in curricula and for the organization of studies.

Article 18

The task of the Inspectors shall be to:

1. ensure, in their respective cycles of instruction, supervision of the work of teachers from their national administrations;

2. compare views on the standard of work attained and the quality of the teaching methods;

3. address to the Headteachers and the teaching staff the results of their inspections.

(b) sprejme proračun šol za vsako proračunsko leto v skladu z odstavkom 4 spodaj;

(c) odobri zaključni račun prihodkov in odhodkov ter ga pošlje pristojnim organom Evropskih skupnosti.

2. Svet guvernerjev pripravi vsako leto najpozneje do 30. aprila načrt prihodkov in odhodkov šol za prihodnje proračunsko leto ter ga nemudoma pošlje Komisiji, ki na tej podlagi pripravi potrebne napovedi v predhodnem predlogu splošnega proračuna Evropskih skupnosti.

Organ za izvrševanje proračuna Evropskih skupnosti določi višino prispevka Evropskih skupnosti po svojem proračunskem postopku.

3. Svet guvernerjev pošlje načrt prihodkov in odhodkov tudi drugim organizacijam javnega prava, predvidenim v členu 28, in organizacijam ali institucijam, predvidenim v členu 29, katerih finančni prispevek so tolikšen, da se iz njega financira večji del proračuna šole, tako da lahko določijo višino svojih prispevkov.

4. Svet guvernerjev dokončno sprejme proračun šol pred začetkom proračunskega leta in ga po potrebi prilagodi glede na prispevke Evropskih skupnosti in organizacij ali institucij, navedenih v odstavku 3.

Člen 14

Glavni tajnik predstavlja svet guvernerjev in vodi tajništvo v skladu s pravilnikom o delu glavnega tajnika, predvidenim v členu 12(1). Šole predstavlja v sodnih postopkih. Odgovoren je svetu guvernerjev.

POGLAVJE 2
Odbora inšpektorjev

Člen 15

Za namene šol se ustanovita dva odbora inšpektorjev: eden za predšolsko in primarno izobraževanje, drugi za sekundarno izobraževanje.

Člen 16

Vsako državo članico pogodbenico predstavlja en inšpektor v vsakem od obeh odborov. Imenuje ga svet guvernerjev na predlog zadevne pogodbenice.

Odboroma inšpektorjev predseduje predstavnik odbora inšpektorjev tiste države članice, ki predseduje svetu guvernerjev.

Člen 17

Naloga odborov inšpektorjev je zagotavljati kakovost izobraževanja, ki ga dajejo šole, in v ta namen zagotoviti izvajanje potrebnih inšpekcijskih pregledov v šolah.

Svetu guvernerjev dajeta mnenja in predloge, predvidene v členih 11 in 12, ter po potrebi predloge za spremembe kurikulov in za organizacijo izobraževanja.

Člen 18

Naloga inšpektorjev je:

1. zagotoviti nadzor nad delom učiteljev iz njihovih nacionalnih uprav v rednih zaporednih obdobjih njihovega poučevanja;

2. primerjati mnenja o doseženi ravni dela in kakovosti učnih metod;

3. seznanjati ravnatelje in učno osebje z ugotovitvami svojih pregledov.

Taking into account needs evaluated by the Board of Governors, each Member State shall provide the Inspectors with the facilities necessary for carrying out fully their task in the Schools.

CHAPTER 3
The Administrative Board

Article 19

Subject to Articles 28 and 29, each Administrative Board provided for in Article 7 shall comprise eight members, as follows:

1. the Secretary-General, who shall be Chairman;
2. the Headteacher of the School;
3. the representative of the Commission of the European Communities;
4. two members of the teaching staff, one representing the staff of the secondary school and the other the staff of the primary and nursery schools jointly;

5. two members representing the Parents' Association as provided for in Article 23;
6. a representative of the administrative and ancillary staff.

A representative of the Member State in which the School is located may attend meetings of the Administrative Board as an observer.

Two representatives of the pupils shall be invited to attend meetings of the Administrative Board of their School as observers for items of business which concern them.

Article 20

The Administrative Board shall:

1. prepare the estimates of revenue and expenditure of the School in accordance with the Financial Regulation;
2. supervise the implementation of the School's section of the budget and draw up its annual revenue and expenditure account;
3. ensure that suitable physical conditions and an atmosphere conducive to the proper operation of the School are maintained;
4. perform such other administrative duties as may be entrusted to it by the Board of Governors.

The procedures for the convening of meetings and for decision-making by the Administrative Boards shall be laid down in the General Rules of the Schools provided for in Article 10.

CHAPTER 4
The Headteacher

Article 21

The Headteacher shall discharge his duties in accordance with the General Rules provided for in Article 10. He shall have authority over the staff assigned to the School in accordance with the procedures stipulated in Article 12 (4) (a) and (b).

He shall have the competence and the qualifications required in his country for directing an educational establishment providing a leaving certificate entitling the holder to university entrance. He shall be responsible to the Board of Governors.

TITLE III
STAFF REPRESENTATION

Article 22

A Staff Committee shall be established comprising elected representatives of the teaching staff and of the administrative and ancillary staff of each School.

Ob upoštevanju potreb, ki jih oceni svet guvernerjev, vsaka država članica zagotovi inšpektorjem potrebne možnosti, da bodo lahko v celoti opravili njihove naloge v šolah.

POGLAVJE 3
Upravni odbor

Člen 19

S pridržkom členov 28 in 29 vsak upravni odbor, predviden v členu 7, sestavlja osem članov:

1. glavni tajnik, ki predseduje;
2. ravnatelj šole;
3. predstavnik Komisije Evropskih skupnosti;

4. dva člana učnega osebja, od katerih je eden predstavnik osebja v sekundarnem izobraževanju ter drugi skupni predstavnik osebja v predšolskem in primarnem izobraževanju;
5. dva člana, predstavnika združenja staršev, kakor predvideva člen 23;
6. predstavnik upravnega in pomožnega osebja.

Predstavnik države članice, na ozemlju katere je šola, se lahko udeleži sestankov upravnega odbora kot opazovalec.

Dva predstavnika učencev sta povabljena na sestanke upravnega odbora njune šole kot opazovalca v tistih točkah dnevnega reda, ki zadevajo učence.

Člen 20

Upravni odbor:

1. pripravi načrt dohodkov in odhodkov šole v skladu s Finančno uredbo;
2. nadzira izvajanje proračuna v proračunskem deležu šole ter sestavi zaključni račun njenih prihodkov in odhodkov;
3. zagotovi vzdrževanje primernih fizičnih pogojev in ugodnega vzdušja, ki je potrebno za ustrezno delovanje šole;
4. opravlja druge upravne naloge, ki mu jih lahko zaupa svet guvernerjev.

Postopki za sklicevanje zasedanj in za odločanje upravnih odborov se določijo v splošnih šolskih pravilnikih šol, predvidenih v členu 10.

POGLAVJE 4
Ravnatelj

Člen 21

Ravnatelj izpolnjuje svoje dolžnosti v skladu s splošnim pravilnikom, predvidenim v členu 10. Po postopkih iz člena 12(4)(a) in (b) je nadrejen delavcem, ki so zaposleni v šoli.

Ima kompetence in kvalifikacije, kakršne se zahtevajo v njegovi državi za vodenje izobraževalne ustanove, ki daje zaključno spričevalo, s katerim se je mogoče vpisati na univerzo. Odgovoren je svetu guvernerjev.

NASLOV III
PREDSTAVLJANJE DELAVCEV

Člen 22

Ustanovi se odbor delavcev, ki ga sestavljajo izvoljeni predstavniki učnega osebja in upravnega ter pomožnega osebja vsake šole.

The Committee shall contribute to the proper functioning of the Schools by enabling the opinion of the staff to emerge and be expressed.

The procedures for the election and operation of the Staff Committee shall be determined in the Service Regulations for the teaching staff and for the administrative and ancillary staff provided for in Article 12 (1).

Once a year the Staff Committee shall designate a member and an alternate from among the teaching staff to represent the staff on the Board of Governors.

Odbor s tem, da delavcem omogoči oblikovati in izražati svoje mnenje, prispeva k ustreznemu delovanju šol.

Postopki za volitve in delovanje odbora delavcev se opredelijo v pravilniku o delu učnega osebja in upravnega ter pomožnega osebja v skladu s členom 12(1).

Odbor delavcev enkrat letno izmed učnega osebja imenuje člana in namestnika, ki predstavljata osebje v svetu guvernerjev.

TITLE IV
THE PARENTS' ASSOCIATION

Article 23

For the purpose of maintaining relations between the pupils' parents and the School authorities, the Board of Governors shall recognize for each School the Association which is representative of the pupils' parents.

The Parents' Association so recognized shall designate each year two representatives on the Administrative Board of the School concerned.

Once a year the Parents' Associations of the Schools shall designate a member and an alternate to represent the Associations on the Board of Governors.

NASLOV IV
ZDRUŽENJE STARŠEV

Člen 23

Za vzdrževanje stikov med starši učencev in organi šole svet guvernerjev za vsako šolo prizna združenje, ki predstavlja starše učencev.

Tako priznano združenje staršev vsako leto določi dva predstavnika v upravni odbor zadevne šole.

Združenja staršev Evropskih šol enkrat letno določijo člana in namestnika, ki predstavlja združenja v svetu guvernerjev.

TITLE V
THE BUDGET

Article 24

The financial year of the Schools shall correspond to the calendar year.

Article 25

The budget of the Schools shall be financed by:

1. contributions from the Member States through the continuing payment of the remuneration for seconded or assigned teaching staff and, where appropriate, a financial contribution decided on by the Board of Governors acting unanimously;
2. the contribution from the European Communities, which is intended to cover the difference between the total amount of expenditure by the Schools and the total of other revenue;
3. contributions from non-Community organizations with which the Board of Governors has concluded an Agreement;
4. the School's own revenue, notably the school fees charged to parents by the Board of Governors;
5. miscellaneous revenue.

The arrangements for making available the contribution from the European Communities shall be laid down in a special agreement between the Board of Governors and the Commission.

NASLOV V
PRORAČUN

Člen 24

Proračunsko leto šol je enako koledarskemu letu.

Člen 25

Proračun šol se financira:

1. s prispevki držav članic prek trajnih plačil začasno premeščenega ali dodeljena osebja in po potrebi s finančnim prispevkom, o katerem soglasno odloča svet guvernerjev;
2. s prispevkom Evropskih skupnosti, ki je namenjen kritju razlike med skupnimi odhodki šol in skupnimi drugimi prihodki;
3. s prispevki organizacij nečlanic Skupnosti, s katerimi je svet guvernerjev sklenil sporazum;
4. z lastnimi prihodki šole, zlasti s šolninami, ki jih staršem zaračuna svet guvernerjev;
5. z raznimi prihodki.

Postopek za zagotovitev razpoložljivosti prispevka Evropskih skupnosti je predmet posebnega sporazuma med svetom guvernerjev in Komisijo.

TITLE VI
DISPUTES

Article 26

The Court of Justice of the European Communities shall have sole jurisdiction in disputes between Contracting Parties relating to the interpretation and application of this Convention which have not been resolved by the Board of Governors.

NASLOV VI
SPORI

Člen 26

Za spore med pogodbenicami v zvezi z razlago in uporabo Konvencije, ki jih ne reši svet guvernerjev, je izključno pristojno Sodišče Evropskih skupnosti.

Article 27

1. A Complaints Board is hereby established.

2. The Complaints Board shall have sole jurisdiction in the first and final instance, once all administrative channels have been exhausted, in any dispute concerning the application of this Convention to all persons covered by it with the exception of administrative and ancillary staff, and regarding the legality of any act based on the Convention or rules made under it, adversely affecting such persons on the part of the board of Governors of the Administrative Board of a school in the exercise of their powers as specified by this Convention. When such disputes are of a financial character, the Complaints Board shall have unlimited jurisdiction.

The conditions and the detailed rules relative to these proceedings shall be laid down, as appropriate, by the Service Regulations for the teaching staff or by the conditions of employment for part-time teachers, or by the General Rules of the Schools.

3. The members of the Complaints Board shall be persons whose independence is beyond doubt and who are recognized as being competent in law.

Only persons on a list to be compiled by the Court of Justice of the European Communities shall be eligible for membership of the Complaints Board.

4. The Statue of the Complaints Board shall be adopted by the Board of Governors, acting unanimously.

The Statute of the Complaints Board shall determine the number of members of the Board, the procedure for their appointment by the Board of Governors, the duration of their term of office and the financial arrangements applicable to them. The Statute shall specify the manner in which the Board is to operate.

5. The Complaints Board shall adopt its rules of procedure, which shall contain such provisions as are necessary for applying the Statute.

The rules of procedure shall require the unanimous approval of the Board of Governors.

6. The judgments of the complaints Board shall be binding on the parties and, should the latter fail to implement them, rendered enforceable by the relevant authorities of the Member States in accordance with their respective national laws.

7. Other disputes to which the Schools are party shall fall within national jurisdiction. In particular, national courts' jurisdiction with regard to matters of civil and criminal liability is not affected by this Article.

Člen 27

1. Ustanovi se odbor za pritožbe.

2. Ko so izčrpane vse upravne poti, ima odbor za pritožbe izključno pristojnost na prvi in končni stopnji v kakršnih koli sporih glede uporabe te konvencije za vse osebe, ki jih zajema, razen upravnega in pomožnega osebja, in glede zakonitosti katerega koli akta, ki temelji na tej konvenciji, ali glede pravilnika, ki je na njej zasnovan, in škoduje takim osebam s strani odbora guvernerjev upravnega odbora šole pri izvajanju njihovih pooblastil, kakor jih določa ta konvencija. V primerih, ko gre za spore finančne narave, ima odbor za pritožbe neomejeno pristojnost.

Pogoji in podrobna pravila v zvezi s temi postopki se določijo, kakor je to ustrezno, s pravilnikom o delu učnega osebja ali s pogoji za zaposlitev učiteljev s krajšim delovnim časom ali s splošnim šolskim pravilnikom.

3. Člani odbora za pritožbe so osebe, katerih neodvisnost je nedvomna in ki so usposobljene za področje prava.

Člani odbora za pritožbe so lahko samo osebe na seznamu, ki ga sestavi Sodišče Evropskih skupnosti.

4. Svet guvernerjev soglasno sprejme Statut odbora za pritožbe.

Statut odbora za pritožbe določa število članov odbora, postopek za njihovo imenovanje s strani sveta guvernerjev, trajanje njihovega mandata in finančna pravila, ki se zanje uporabljajo. Statut natančno določa način delovanja odbora.

5. Odbor za pritožbe sprejme svoj poslovnik, ki vsebuje vse določbe, potrebne za uporabo statuta.

Za sprejetje poslovnika je potrebna soglasna odobritev sveta guvernerjev.

6. Sodbe odbora za pritožbe so zavezujoče za stranke in, če jih te ne izvajajo, izvršljive preko pristojnih organov držav članic v skladu z njihovimi nacionalnimi predpisi.

7. Drugi spori, v katerih so šole stranka, so v nacionalni pristojnosti. Ta člen zlasti ne vpliva na pristojnost nacionalnih sodišč v zvezi s civilnopravno in kazensko odgovornostjo.

TITLE VII
SPECIAL PROVISIONS

Article 28

The Board of Governors, acting unanimously, may conclude participation Agreements concerning an existing School or one to be established in accordance with Article 2 with any organizations governed by public law which, by reason of their location, have an interest in the operation of the Schools. By concluding such an Agreement, any such organization may then have a set and a vote on the Board of Governors for all matters regarding the School in question if its financial contribution is such as to finance the bulk of the School's budget. It may also obtain a seat and a vote on the Administrative Board of the School in question.

Article 29

The Board of Governors, acting unanimously, may also negotiate agreements other than participation Agreements with organizations or institutions governed by public or private law which have an interest in the operation of one of the Schools.

NASLOV VII
POSEBNE DOLOČBE

Člen 28

Svet guvernerjev lahko soglasno sklepa sporazume o sodelovanju, ki zadevajo obstoječo šolo ali šolo, ki bo ustanovljena v skladu s členom 2, z vsemi organizacijami javnega prava, ki imajo zaradi mesta svojega delovanja interes za delovanje šol. S sklenitvijo takšnega sporazuma ima lahko torej vsaka taka organizacija sedež in glas v svetu guvernerjev za vse zadeve v zvezi s šolo, če je njen finančni prispevek takšen, da z njim financira pomemben delež proračuna šole. Pridobi lahko tudi sedež in glas v upravnem odboru zadevne šole.

Člen 29

Svet guvernerjev se lahko z organizacijami ali institucijami javnega ali zasebnega prava, ki imajo interes za delovanje ene od šol, soglasno pogaja tudi o sporazumih, ki niso sporazumi o sodelovanju.

The Board of Governors may grant them a seat and a vote on the Administrative Board of the School in question.

Article 30

The Board of Governors may negotiate with the Government of a country in which a School is located any additional Agreement required to ensure that the School can operate under the best possible conditions.

Article 31

1. Any Contracting Party may denounce this Convention by written notification to the Luxembourg Government; the latter shall inform the other Contracting Parties upon receipt of the notification. Denunciation shall be notified by 1 September of any year in order to take effect on 1 September the following year.

2. A Contracting Party which denounces this Convention shall abandon any share in the assets of the Schools. The Board of Governors shall decide which organizational measures, including staff measures, are to be taken as a result of denunciation by any of the Contracting Parties.

3. The Board of Governors, acting in accordance with the voting method set out in Article 9, may decide to close a School. It shall, by the same procedure, take such steps in regard to that School as it considers necessary, in particular as regards the situation of teaching, administrative and service staff and the distribution of the assets of the School.

4. Any Contracting Party may request that this Convention be amended. To that end, it shall notify the Luxembourg Government of its request. The Luxembourg Government shall make the necessary arrangements with the Contracting Party holding the Presidency of the Council of the European Communities to convene an Intergovernmental Conference.

Article 32

Applications for the accession to this Convention of any State becoming a member of the Community shall be made in writing to the Luxembourg Government, which shall inform each of the other Contracting Parties thereof.

Accession shall take effect on 1 September following the day on which the instruments of accession are deposited with the Luxembourg Government.

From that date, the composition of the organs of the Schools shall be altered accordingly.

Article 33

This Convention shall be ratified by the Member States as Contracting Parties in accordance with their respective constitutional requirements. As regards the European Communities, it shall be concluded in accordance with the Treaties establishing them. The instruments of ratification and the acts notifiying the conclusion of this Convention shall be deposited with the Luxembourg Government, as depositary of the Statute of the European Schools. That Government shall inform all the other Contracting Parties of the deposit.

This Convention shall enter into force on the first day of the month following the deposit of all instruments of ratification by the Member States and of the acts notifying conclusion by the European Communities.

This Convention, drawn up in a single original in the Danish, Dutch, English, French, German, Greek, Italian, Portuguese and Spanish languages, all nine texts being equally authentic, shall be deposited in the archives of the Luxembourg Government, which shall transmit a certified copy to each of the other Contracting Parties.

Article 34

This Convention cancels and replaces the Statute of 12 April 1957 and the Protocol thereto of 13 April 1962.

Svet guvernerjev jim lahko podeli sedež in glas v upravnem odboru zadevne šole.

Člen 30

Svet guvernerjev se lahko pogaja z vlado države, v kateri je šola, o dodatnem sporazumu, ki je potreben zato, da lahko šola deluje v najboljših možnih pogojih.

Člen 31

1. Vsaka pogodbenica lahko odpove Konvencijo s pisno notifikacijo luksemburški vladi; ta o prejemu notifikacije obvesti druge pogodbenice. Odpoved se notificira do 1. septembra tekočega leta, da začne učinkovati 1. septembra naslednje leto.

2. Pogodbenica, ki odpove to konvencijo, se odreče vsem deležem v premoženju šol. Svet guvernerjev odloči, kakšne organizacijske ukrepe, vključno z ukrepi glede osebja, je treba sprejeti zaradi odpovedi katere od pogodbenic.

3. Svet guvernerjev lahko v skladu z načinom glasovanja, predvidenim v členu 9, sklene zapreti šolo. Po enakem postopku sprejme v zvezi s šolo vse ukrepe, ki se mu zdijo potrebni, zlasti glede položaja učnega, upravnega in tehničnega osebja ter porazdelitve sredstev šole.

4. Vsaka pogodbenica lahko zahteva, da se Konvencija spremeni. V ta namen svojo zahtevo notificira luksemburški vladi. Luksemburška vlada skupaj s pogodbenico, ki predseduje Svetu Evropskih skupnosti, sprejme potrebne ukrepe za sklic medvladne konference.

Člen 32

Pisne vloge za pristop h Konvenciji katere koli države, ki postane članica Skupnosti, se naslovijo na luksemburško vlado, ki o tem obvesti druge pogodbenice.

Pristop začne učinkovati 1. septembra po deponiranju listin o pristopu pri luksemburški vladi.

S tem dnem se ustrezno spremeni sestava organov šole.

Člen 33

Konvencijo ratificirajo države članice kot pogodbenice v skladu z njihovimi ustavnimi določbami. Evropske skupnosti jo sklenejo v skladu s Pogodbami o njihovi ustanovitvi. Listine o ratifikaciji in akti o notifikaciji sklenitve te konvencije se deponirajo pri luksemburški vladi kot depozitarju Statuta Evropskih šol. Navedena vlada o deponiranju obvesti še druge pogodbenice.

Ta konvencija začne veljati prvi dan v mesecu po deponiranju listin o ratifikaciji vseh držav članic in aktov o notifikaciji sklenitve Konvencije s strani Evropskih skupnosti.

Ta konvencija, sestavljena v enem izvirniku v danskem, nizozemskem, angleškem, francoskem, nemškem, grškem, italijanskem, portugalskem in španskem jeziku, pri čemer je vseh devet besedil enako verodostojnih, se deponira v arhivih luksemburške vlade, ki pošlje overjeno kopijo drugim pogodbenicam.

Člen 34

Ta konvencija razveljavlja in nadomešča Statut z dne 12. aprila 1957 in njegov Protokol z dne 13. aprila 1962.

Save as otherwise provided in this Convention, the European baccalaureate Agreement shall remain in force.

The supplementary Protocol concerning the Munich School, drawn up with reference to the Protocol of 13 April 1962 and signed at Luxembourg on 15 December 1975, shall be unaffected by this Convention.

The references in the acts previous to this Convention which concern the Schools shall be understood as relating to the corresponding Articles of this Convention.

Done at Luxembourg on the twenty-first day of June in the year one thousand nine hundred and ninety-four.

Če v tej konvenciji ni določeno drugače, Sporazum o evropski maturi še naprej velja.

Ta konvencija ne vpliva na dopolnilni protokol o šoli v Münchnu, ki je sestavljen s sklicevanjem na Protokol z dne 13. aprila 1962 ter podpisan v Luksemburgu dne 15. decembra 1975.

Sklicevanja v aktih, sprejetih pred to konvencijo, ki se nanašajo na šole, se razumejo, kakor da se nanašajo na ustrezne člene te konvencije.

V Luxembourgu, dne enaindvajsetega junija tisoč devetsto štiriindevetdeset.

ANNEX I

European Schools to which the Statute applies:
European School, Bergen
European School, Brussels I
European School, Brussels II
European School, Brussels III (1*)
European School, Culham
European School, Karlsruhe
European School, Luxembourg
European School, Mol
European School, Munich
European School, Varese

(1*) The Board of Governors decided to establish this School at their meeting of 27/29 October 1992.

PRILOGA I

Evropske šole, za katere se uporablja Statut:
Evropska šola, Bergen
Evropska šola, Bruselj I
Evropska šola, Bruselj II
Evropska šola, Bruselj III (*),
Evropska šola, Culham
Evropska šola, Karlsruhe
Evropska šola, Luxembourg
Evropska šola, Mol
Evropska šola, München
Evropska šola, Varese

(*) Svet guvernerjev je sklenil ustanoviti to šolo na zasedanju od 27. do 29. oktobra 1992.

ANNEX II

Languages in which basic instruction is given:
Danish
Dutch
English
French
German
Greek
Italian
Portuguese
Spanish

PRILOGA II

Jeziki, v katerih poteka osnovno poučevanje:
danščina
nizozemščina
angleščina
francoščina
nemščina
grščina
italijanščina
portugalščina
španščina

3. člen

Za izvajanje konvencije skrbi Ministrstvo za šolstvo, znanost in šport Republike Slovenije.

4. člen

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

Št. 602-07/04-2/1
Ljubljana, dne 9. aprila 2004
EPA 1204-III

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

46. Uredba o ratifikaciji Sporazuma med Evropsko skupnostjo in Republiko Slovenijo, ki določa postopek pridobivanja informacij na področju tehničnih predpisov in pravil o storitvah informacijske družbe

U R E D B A
O RATIFIKACIJI SPORAZUMA MED EVROPSKO SKUPNOSTJO IN REPUBLIKO SLOVENIJO, KI DOLOČA POSTOPEK PRIDOBIVANJA INFORMACIJ NA PODROČJU TEHNIČNIH PREDPISOV IN PRAVIL O STORITVAH INFORMACIJSKE DRUŽBE

1. člen

Ratificira se Sporazum med Evropsko skupnostjo in Republiko Slovenijo, ki določa postopek pridobivanja informacij na področju tehničnih predpisov in pravil o storitvah informacijske družbe, podpisan 4. februarja 2004 v Bruslju.

2. člen

Besedilo sporazuma se v izvirniku v slovenskem in angleškem jeziku glasi:*

S P O R A Z U M
MED EVROPSKO SKUPNOSTJO IN REPUBLIKO SLOVENIJO, KI DOLOČA POSTOPEK PRIDOBIVANJA INFORMACIJ NA PODROČJU TEHNIČNIH PREDPISOV IN PRAVIL O STORITVAH INFORMACIJSKE DRUŽBE

EVROPSKA SKUPNOST,
v nadaljnjem besedilu »Skupnost«,
na eni strani in
REPUBLIKA SLOVENIJA,
v nadaljnjem besedilu »Slovenija«,
na drugi strani,
v nadaljnjem besedilu »pogodbenici«, sta se

OB UPOŠTEVANJU Evropskega sporazuma o pridružitvi med Evropskimi skupnostmi in njihovimi državami članicami na eni strani in Republiko Slovenijo na drugi strani[1], v nadaljnjem besedilu »Evropski sporazum«, in zlasti ciljev iz njegovega 1. člena,

OB UPOŠTEVANJU postopka obveščanja o tehničnih predpisih in pravilih o storitvah informacijske družbe, ki se uporabljajo v Evropski skupnosti[2],

OB UPOŠTEVANJU Protokola k Evropskemu sporazumu o ugotavljanju skladnosti in sprejemljivosti industrijskih izdelkov[3] in zlasti ciljev, navedenih v njegovem 12. členu,

GLEDE NA zavezo pogodbenic, da med seboj spodbujata skladne gospodarske odnose,

GLEDE NA stalno sodelovanje med pogodbenicama na področju tehničnih ovir v trgovini in skupnega dogovora, doseženega pri tem sodelovanju, da se postopek obveščanja o tehničnih predpisih in pravilih o storitvah informacijske družbe, ki se uporablja v Skupnosti, razširi na Slovenijo,

DOGOVORILI:

1. ČLEN

V tem sporazumu se uporabljajo ti izrazi:

(a) »izdelek«: kateri koli industrijski in kateri koli kmetijski izdelek, vključno z ribjimi izdelki;

[1] UL L 360, 31. 12. 1994, str. 2.

[2] Direktiva 98/34/ES Evropskega parlamenta in Sveta z dne 22. junija, ki določa postopek pridobivanja informacij na področju tehničnih standardov in predpisov ter pravil o storitvah informacijske družbe (UL L 204, 21. 7. 1998, str. 37). Direktiva je bila spremenjena z Direktivo 98/48/ES (UL L 217, 5. 8. 1998, str. 18).

[3] UL L 135, 17. 5. 2001, str. 3.

A G R E E M E N T
BETWEEN THE EUROPEAN COMMUNITY AND THE REPUBLIC OF SLOVENIA LAYING DOWN A PROCEDURE FOR THE PROVISION OF INFORMATION IN THE FIELD OF TECHNICAL REGULATIONS AND OF RULES ON INFORMATION SOCIETY SERVICES

THE EUROPEAN COMMUNITY,
hereinafter referred to as "the Community",
on the one hand, and
THE REPUBLIC OF SLOVENIA,
hereinafter referred to as "Slovenia"
on the other hand,
hereinafter referred to as "the Contracting Parties",

HAVING REGARD to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Slovenia, of the other part [1], hereinafter referred to as "the Europe Agreement", and in particular to the aims set out in Article 1 thereof,

HAVING REGARD to the information procedure on technical regulations and rules on information society services applied within the European Community [2],

HAVING REGARD to the Protocol to the Europe Agreement on Conformity Assessment and Acceptance of Industrial Products [3] and in particular to the aims set out in Article 12 thereof,

CONSIDERING the commitment of the Contracting Parties to promote harmonious economic relations between themselves,

CONSIDERING the ongoing cooperation between the Contracting Parties in the field of technical barriers to trade and the common understanding reached within the framework of that cooperation to extend this information procedure on technical regulations and rules on information society services applied in the Community to Slovenia,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

For the purpose of this Agreement, the following definitions apply:

(a) "product": any industrially manufactured product and any agricultural product, including fish products;

[1] OJ L 360, 31. 12. 1994, p. 2.

[2] Directive 98/34/EC of the European Parliament and of the Council of 22 June laying down a procedure for the provision of information in the field of technical standards and regulations and rules on Information Society services (OJ L 204, 21. 7. 1998, p. 37). Directive as amended by Directive 98/48/EC (OJ L 217, 5. 8. 1998, p. 18).

[3] OJ L 135, 17. 5. 2001, p. 3.

* Besedilo sporazuma v danskem, finskem, francoskem, grškem, italijanskem, nemškem, nizozemskem, portugalskem, španskem in švedskem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve.

(b) »storitev«: katera koli storitev informacijske družbe, kar pomeni katero koli storitev, ki se po navadi zagotavlja za plačilo, na daljavo, z elektronskimi sredstvi in na posamezno zahtevo prejemnika storitev;

pri čemer:

– »na daljavo« pomeni, da se storitev zagotavlja, ne da bi bili strani sočasno prisotni;

– »z elektronskimi sredstvi« pomeni, da se storitev na začetku pošlje in v namembnem kraju sprejme z elektronsko opremo za obdelavo (vključno z digitalnim stiskanjem) in shranjevanje podatkov in v celoti pošlje, prenese in sprejme po žici, radiu, optičnih sredstvih ali drugih elektromagnetnih sredstvih;

– »na posamezno zahtevo prejemnika storitev« pomeni, da se storitev zagotavlja s prenosom podatkov na posamezno zahtevo.

Okvirni seznam storitev, ki niso vključene v to opredelitev, je v prilogi I.

Ta sporazum se ne uporablja za storitve:

– radijskega oddajanja,

– televizijskega oddajanja, navedene v točki (a) 1. člena Direktive 89/552/EGS[4].

(c) »tehnična specifikacija«: specifikacija, vsebovana v dokumentu, ki določa zahtevane značilnosti izdelka, kot je raven kakovosti, učinkovitosti, varnosti ali mer, vključno z zahtevami za izdelek glede imena, pod katerim se prodaja, izrazja, simbolov, preskušanja in preskusnih metod, embalaže, oznak ali označevanja ter postopkov ugotavljanja skladnosti.

Ta izraz vključuje tudi načine pridelave in postopke, ki se uporabljajo za kmetijske izdelke, na katere se sklicuje prvi odstavek 38. člena Pogodbe o Evropski skupnosti, izdelke, namenjene za prehrano ljudi in živali, ter zdravila, kot so opredeljena v 1. členu Direktive 2001/83/ES[5], ter proizvodne načine in postopke, ki se nanašajo na druge izdelke, če vplivajo na njihove značilnosti;

(d) »druge zahteve«: zahteva za izdelek, ki ni tehnična specifikacija, katere namen je varstvo zlasti potrošnikov ali okolja in ki vpliva na njegov življenjski krog, potem ko je dan na trg, na primer pogoji za uporabo, recikliranje, ponovno uporabo ali odstranjevanje, če pomembno vplivajo na sestavo ali lastnosti izdelka ali njegovo trženje;

(e) »pravilo o storitvah«: splošna zahteva, ki se nanaša na začetek opravljanja in opravljanje storitvenih dejavnosti v smislu točke (b), zlasti določb o ponudniku storitev, storitvah in prejemniku storitev, in izključuje vsa pravila, ki niso posebej namenjena storitvam, ki so v njih opredeljene.

Ta sporazum se ne uporablja za pravila, ki se nanašajo na zadeve, vključene v zakonodajo Skupnosti na področju telekomunikacijskih storitev, opredeljenih v Direktivi 90/387/EGS[6].

Ta sporazum se ne uporablja za pravila, ki se nanašajo na zadeve, vključene v zakonodajo Skupnosti na področju finančnih storitev, primeroma navedenih v prilogi II k temu sporazumu.

[4] Direktiva Sveta 89/552/EGS z dne 8. oktobra 1989 o usklajevanju nekaterih določb, predpisanih z zakoni, podzakonskimi in upravnimi akti v državah članicah, glede televizijskega oddajanja (UL L 298, 17. 10. 1989, str. 23). Direktiva je bila nazadnje spremenjena z Direktivo 97/98/ES (UL L 202, 30. 7. 1997, str. 1).

[5] Direktiva 2001/83/ES Evropskega parlamenta in Sveta z dne 6. novembra 2001 o Kodeksu Skupnosti v zvezi z zdravili za uporabo v humani medicini (UL L 311, 28. 11. 2001, str. 67). Direktiva je bila spremenjena z Direktivo 2002/98/ES (UL L 33, 8. 2. 2003, str. 30).

[6] Direktiva Sveta 90/387/EGS z dne 28. junija 1990 o uvedbi notranjega trga za telekomunikacijske storitve z izvajanjem določb za področna omrežja (UL L 192, 24. 7. 1990, str. 1). Direktiva je bila spremenjena z Direktivo 97/51/ES (UL L 295, 29. 10. 1997, str. 23).

(b) "service": any Information Society service, by which is meant any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.

For the purposes of this definition:

– "at a distance": means that the service is provided without the parties being simultaneously present,

– "by electronic means": means that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means,

– "at the individual request of a recipient of services": means that the service is provided through the transmission of data on individual request.

An indicative list of services not covered by this definition is set out in Annex I.

This Agreement shall not apply to:

– radio broadcasting services,

– television broadcasting services covered by point (a) of Article 1 of Directive 89/552/EEC [4].

(c) "technical specification": a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures.

This definition also covers production methods and processes used in respect of agricultural products as referred to in Article 38(1) of the Treaty establishing the European Community, products intended for human and animal consumption, and medicinal products as defined in Article 1 of Directive 2001/83/EC [5], as well as production methods and processes relating to other products, where these have an effect on their characteristics.

(d) "other requirements": a requirement, other than a technical specification, imposed on a product for the purpose of protecting, in particular, consumers or the environment, and which affects its life cycle after it has been placed on the market, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence the composition or nature of the product or its marketing;

(e) "rule on services": requirement of a general nature relating to the taking-up and pursuit of service activities within the meaning of point (b), in particular provisions concerning the service provider, the services and the recipient of services, excluding any rules which are not specifically aimed at the services defined therein.

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of telecommunications services, as defined by Directive 90/387/EEC [6].

This Agreement shall not apply to rules relating to matters which are covered by Community legislation in the field of financial services, as listed non-exhaustively in Annex II to this Agreement.

[4] Council Directive 89/552/EEC of 8 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities (OJ L 298, 17. 10. 1989, p. 23). Directive as last amended by Directive 97/98/EC (OJ L 202, 30. 7. 1997, p. 1).

[5] Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code relating to medicinal products for human use (OJ L 311, 28. 11. 2001, p. 67). Directive as amended by Directive 2002/98/EC (OJ L 33, 8. 2. 2003, p. 30).

[6] Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of area network provisions (OJ L 192, 24. 7. 1990, p. 1). Directive as amended by Directive 97/51/EC (OJ L 295, 29. 10. 1997, p. 23).

Razen 11. člena se ta sporazum ne uporablja za pravila, ki veljajo na reguliranih trgih ali so bila za take trge sprejeta v smislu Direktive 93/22/EGS[7] ali ki veljajo na drugih trgih ali so bila sprejeta za te trge ali organe, ki za te trge opravljajo obračune ali poravnave.

V tej opredelitvi:

– se šteje, da je pravilo posebej namenjeno storitvam informacijske družbe, če ob upoštevanju utemeljitve in izvedbenega dela iz pravila izhaja, da sta poseben namen in predmet vseh ali nekaterih posameznih določb izrecno in usmerjeno urejati take storitve;

– se ne šteje, da je pravilo posebej namenjeno storitvam informacijske družbe, če na take storitve vpliva le posredno ali naključno.

(f) »tehnični predpis«: tehnične specifikacije in druge zahteve ali pravila o storitvah, vključno z ustreznimi upravnimi določbami, katerih upoštevanje je pravno ali dejansko obvezno pri trženju, zagotavljanju storitve, ustanovitvi podjetja ponudnika storitve ali uporabi v eni od držav članic Evropske skupnosti, v nadaljnjem besedilu »države članice«, ali njenem večjem delu ali Sloveniji ali njenem večjem delu, in tudi zakoni, predpisi ali upravne določbe držav članic ali Slovenije, razen določb, navedenih v 12. členu, ki prepovedujejo izdelavo, uvoz, trženje ali uporabo izdelka ali zagotavljanje ali uporabo storitve ali ustanovitev podjetja ponudnika storitve.

Dejanski tehnični predpisi vključujejo:

– zakone, predpise ali upravne določbe države članice ali Slovenije, ki se nanašajo na tehnične specifikacije, druge zahteve, pravila o storitvah, poklicne kodekse ali kodekse ravnanja, ki se nanašajo na tehnične specifikacije, druge zahteve ali pravila o storitvah, katerih upoštevanje ustvarja domnevo o skladnosti z obveznostmi, ki jih nalagajo omenjeni zakoni, predpisi ali upravne določbe;

– prostovoljne sporazume, katerih pogodbenica je javni organ in ki v splošnem interesu določajo skladnost s tehničnimi specifikacijami ali drugimi zahtevami ali pravili o storitvah, razen specifikacij razpisov za javna naročila;

– tehnične specifikacije ali druge zahteve ali pravila o storitvah, povezanih z davčnimi ali finančnimi ukrepi, ki vplivajo na porabo izdelkov ali storitev s spodbujanjem skladnosti s takimi tehničnimi specifikacijami ali drugimi zahtevami ali predpisi o storitvah; to ne vključuje tehničnih specifikacij ali drugih zahtev ali pravil o storitvah, povezanih s sistemi socialne varnosti v posameznih državah.

To vključuje tehnične predpise organov, ki so jih določile države članice in so na seznamu, ki ga je sestavila Komisija Evropskih skupnosti[8], v nadaljnjem besedilu »Komisija«, v okviru odbora iz 5. člena Direktive 98/34/ES. Slovenija sestavi tak seznam in ga pošlje Komisiji prvi dan prvega meseca po začetku veljavnosti tega sporazuma.

Enak postopek se uporabi za spremembo seznama;

(g) »osnutek tehničnega predpisa«: besedilo tehnične specifikacije ali druge zahteve ali pravila o storitvah, vključno z upravnimi določbami, sestavljenimi z namenom, da se besedilo uveljavi kot tehnični predpis, pri čemer je besedilo na taki stopnji priprave, da ga je še mogoče pomembno spremeniti.

With the exception of Article 11, this Agreement shall not apply to rules enacted by or for regulated markets within the meaning of Directive 93/22/EEC [7] or by or for other markets or bodies carrying out clearing or settlement functions for those markets.

For the purposes of this definition:

– a rule shall be considered to be specifically aimed at Information Society services where, having regard to its statement of reasons and its operative part, the specific aim and object of all or some of its individual provisions is to regulate such services in an explicit and targeted manner,

– a rule shall not be considered to be specifically aimed at Information Society services if it affects such services only in an implicit or incidental manner.

(f) "technical regulation": technical specifications and other requirements or rules on services, including the relevant administrative provisions, the observance of which is compulsory, de jure or de facto, in the case of marketing, provision of a service, establishment of a service operator or use in one of the Member States of the European Community, hereinafter referred to as "Member States", or a major part thereof, or in Slovenia or a major part thereof, as well as laws, regulations or administrative provisions of the Member States or of Slovenia, except those provided for in Article 12, prohibiting the manufacture, importation, marketing or use of a product or prohibiting the provision or use of a service, or establishment as a service provider.

De facto technical regulations include:

– laws, regulations or administrative provisions of a Member State or Slovenia which refer either to technical specifications or to other requirements or to rules on services, or to professional codes or codes of practice which in turn refer to technical specifications or to other requirements or to rules on services, compliance with which confers a presumption of conformity with the obligations imposed by the aforementioned laws, regulations or administrative provisions,

– voluntary agreements to which a public authority is a contracting party and which provide, in the general interest, for compliance with technical specifications or other requirements or rules on services, excluding public procurement tender specifications,

– technical specifications or other requirements or rules on services which are linked to fiscal or financial measures affecting the consumption of products or services by encouraging compliance with such technical specifications or other requirements or rules on services; technical specifications or other requirements or rules on services linked to national social security systems are not included.

This comprises technical regulations imposed by the authorities designated by the Member States and appearing on a list drawn up by the Commission of the European Communities [8], thereinafter called "the Commission", in the framework of the Committee referred to in Article 5 of Directive 98/34/EC. Slovenia shall draw up such a list and forward it to the Commission on the first day of the first month following the entry into force of this Agreement.

The same procedure shall be used for amending this list.

(g) "draft technical regulation": the text of a technical specification or other requirement or of a rule on services, including administrative provisions, formulated with the aim of enacting it or of ultimately having it enacted as a technical regulation, the text being at a stage of preparation at which substantial amendments can still be made.

[7] Direktiva Sveta 93/22/EGS z dne 10. maja 1993 o investicijskih storitvah na področju vrednostnih papirjev (UL L 141, 11. 6. 1993, str. 27). Direktiva je bila nazadnje spremenjena z Direktivo 2002/87/ES (UL L 35, 11. 2. 2003, str. 1).

[8] UL C 23, 27. 1. 2000, str. 3.

[7] Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (OJ L 141, 11. 6. 1993, p. 27). Directive as last amended by Directive 2002/87/EC (OJ L 35, 11. 2. 2003, p. 1).

[8] OJ C 23, 27. 1. 2000, p. 3.

2. ČLEN

Ta sporazum se ne uporablja za tiste ukrepe, za katere države članice menijo, da so potrebni po Pogodbi o ustanovitvi Evropske skupnosti, ali Slovenija meni, da so potrebni za varstvo oseb, zlasti delavcev, kadar se izdelki uporabljajo, če taki ukrepi ne vplivajo na izdelke.

3. ČLEN

1. Skladno z 12. členom Skupnost uradno obvesti Slovenijo o osnutkih tehničnih predpisov, o katerih so jo uradno obvestile države članice. Kadar ti tehnični predpisi le prenašajo celotno besedilo kakega mednarodnega ali evropskega standarda, zadošča informacija o ustreznem standardu. Skupnost tudi seznani Slovenijo z razlogi, zaradi katerih je sprejetje takega tehničnega predpisa potrebno, če ti še niso dovolj jasno predstavljeni v osnutku.

2. Skladno z 12. členom Slovenija prav tako uradno obvesti Skupnost o osnutkih svojih tehničnih predpisov. Kadar ti tehnični predpisi le prenašajo celotno besedilo kakega mednarodnega ali evropskega standarda, zadošča informacija o ustreznem standardu. Slovenija tudi seznani Skupnost z razlogi, zaradi katerih je sprejetje takega tehničnega predpisa potrebno, če ti še niso dovolj jasno predstavljeni v osnutku.

4. ČLEN

Celotno besedilo osnutka tehničnega predpisa mora biti na voljo v izvirnem jeziku in v celovitem prevodu v enega od uradnih jezikov Skupnosti.

5. ČLEN

1. Če je ustrezno in če to ni bilo storjeno že s prejšnjim uradnim obvestilom, se hkrati pošlje celotno besedilo temeljnih zakonskih ali podzakonskih določb, ki so v osnovi in neposredno povezane z osnutkom, v izvirnem jeziku, in sicer če je poznavanje takega besedila potrebno za ocenitev učinkov osnutka tehničnega predpisa, poslanega z uradnim obvestilom.

2. Zlasti kadar osnutek poskuša omejiti trženje ali uporabo kemične snovi, preparata ali izdelka zaradi javnega zdravja ali varstva potrošnikov ali okolja, države članice in Slovenija pošljejo tudi povzetek ali navedbe vseh pomembnih podatkov v zvezi s snovjo, pripravkom ali izdelkom in znanimi razpoložljivimi nadomestki, kadar so take informacije na voljo, ter sporočijo pričakovane učinke ukrepa na javno zdravje in varstvo potrošnikov ter okolje skupaj z analizo tveganja, ki se opravi v skladu s splošnimi načeli ocenjevanja tveganja zaradi kemičnih snovi, kot je omenjena v četrtem odstavku 10. člena Uredbe (EGS) št. 793/93[9], če gre za obstoječo snov, ali v drugem odstavku 3. člena Direktive 67/548/EGS[10], če gre za novo snov.

6. ČLEN

Države članice in Slovenija ponovno pošljejo obvestilo o osnutku tehničnega predpisa pod zgornjimi pogoji, če ga spreminjajo in če se zaradi teh sprememb pomembno spremeni njegov obseg, skrajša prvotno načrtovani časovni načrt izvajanja, če se dodajajo specifikacije ali zahteve ali če so zahteve strožje. Obvestila se pošiljajo v skladu z določbami iz 3. člena.

[9] Uredba Sveta (EGS) št. 793/93 z dne 23. marca 1993 o ocenjevanju in nadzorovanju tveganja, ki ga povzročajo obstoječe snovi (UL L 84, 5. 4. 1993, str. 1).

[10] Direktiva Sveta 67/548/EGS z dne 27. junija 1967 o približevanju zakonov, podzakonskih in upravnih aktov v zvezi z razvrščanjem, pakiranjem in označevanjem nevarnih snovi (OJ L 196, 16. 8. 1967, str. 1). Direktiva je bila nazadnje spremenjena z Uredbo (ES) št. 807/2003 (UL L 122, 16. 5. 2003, str. 36).

ARTICLE 2

This Agreement shall not apply to those measures the Member States consider necessary under the Treaty establishing the European Community or Slovenia considers necessary for the protection of persons, in particular workers, when products are used, provided that such measures do not affect the products.

ARTICLE 3

1. Subject to Article 12, the Community shall notify Slovenia of the draft technical regulations notified to it by its Member States. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let Slovenia have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

2. Subject to Article 12, Slovenia shall likewise notify the Community of its draft technical regulations. Where these technical regulations merely transpose the full text of an international or European standard, information regarding the relevant standard shall suffice. It shall also let the Community have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

ARTICLE 4

A full text of the draft technical regulation notified shall be made available in the original language as well as in a full translation into one of the official languages of the Community.

ARTICLE 5

1. Where appropriate, and unless it has already been sent with a prior communication, a full text in the original language of the basic legislative or regulatory provisions principally and directly concerned shall also be simultaneously communicated, should knowledge of such text be necessary in order to assess the implications of the draft technical regulation notified.

2. Where, in particular, the draft seeks to limit the marketing or use of a chemical substance, preparation or product on grounds of public health or of the protection of consumers or the environment, the Member States and Slovenia shall also forward either a summary or the references of all relevant data relating to the substance, preparation or product concerned and to known and available substitutes, where such information may be available, and communicate the anticipated effects of the measure on public health and the protection of the consumer and the environment, together with an analysis of the risk carried out as appropriate in accordance with the general principles for the risk evaluation of chemical substances as referred to in Article 10(4) of Regulation (EEC) No 793/93 [9] in the case of an existing substance, or in Article 3(2) of Directive 67/548/EEC [10], in the case of a new substance.

ARTICLE 6

The Member States and Slovenia shall communicate the draft technical regulation again under the above conditions if they make changes to the draft that have the effect of significantly altering its scope, shortening the timetable originally envisaged for implementation, adding specifications or requirements, or making the latter more restrictive. Transmission of these communications shall take place in accordance with the provisions set out in Article 3.

[9] Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances (OJ L 84, 5. 4. 1993, p. 1).

[10] Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ L 196, 16. 8. 1967, p. 1). Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16. 5. 2003, p. 36).

7. ČLEN

Vsaka pogodbenica lahko zaprosi za dodatne informacije o osnutku tehničnega predpisa, o katerem je bila v skladu s tem sporazumom uradno obveščena.

8. ČLEN

1. Skupnost in Slovenija lahko dasta pripombe k osnutkom tehničnih predpisov, o katerih je bilo poslano uradno obvestilo. Pripombe Slovenije se pošljejo Komisiji, pripombe Skupnosti pa Komisija sporoči Sloveniji.

2. Države članice in Slovenija pri poznejši pripravi tehničnega predpisa čim bolj upoštevajo take pripombe.

3. Glede tehničnih specifikacij ali drugih zahtev ali pravil o storitvah, navedenih v tretji alinei drugega pododstavka točke (f) 1. člena, se lahko pripombe pogodbenic nanašajo le na vidike, ki lahko ovirajo trgovanje, pri pravilih o storitvah pa prost pretok storitev ali svobodo ustanavljanja podjetij ponudnikov storitev, ne pa na davčne ali finančne vidike ukrepa.

4. Komisija obvesti Slovenijo, kadar uveljavlja šestmesečno mirovanje v skladu z določbami Direktive 98/34/ES.

9. ČLEN

Pristojni organi držav članic in Slovenije odložijo sprejetje osnutka poslanega tehničnega predpisa, o katerem je bilo poslano uradno obvestilo, za tri mesece od datuma, ko Komisija prejme njegovo besedilo.

10. ČLEN

Obdobje mirovanja, navedeno v 9. členu, ne velja v teh primerih:

– če morajo pristojni organi zaradi nujnih razlogov, ki so posledica resnih in nepredvidljivih okoliščin v zvezi z varstvom javnega zdravja ali varnosti, varstvom živali ali ohranjanjem rastlin, pri pravilih o storitvah, pa tudi zaradi splošnega družbenega interesa, predvsem pri zaščiti mladoletnikov, v zelo kratkem času pripraviti tehnične predpise, zato da bi jih sprejeli in uveljavili takoj brez posvetovanja, ali

– če morajo pristojni organi zaradi nujnih razlogov, ki jih povzročijo resne okoliščine v zvezi z zaščito varnosti in celovitosti finančnega sistema, predvsem zaščito deponentov, vlagateljev in zavarovancev, takoj sprejeti in izvajati pravila o finančnih storitvah.

Razloge, ki upravičujejo nujnost sprejetih ukrepov, je treba navesti. Nujni ukrepi se podrobno utemeljijo in jasno razložijo s posebnim poudarkom na nepredvidljivosti in resnosti nevarnosti, s katero se srečujejo ti organi, ter nujnosti takojšnjega ukrepanja za odpravo te nevarnosti.

11. ČLEN

1. Pošlje se tudi končno besedilo tehničnega predpisa v izvirnem jeziku.

2. Postopek za omenjena uradna obvestila in sporočila je naveden v prilogi III k temu sporazumu.

12. ČLEN

1. Tretji do deseti člen se ne uporabljajo za tiste zakone, predpise in upravne določbe držav članic in Slovenije ali prostovoljne sporazume, s katerimi:

ARTICLE 7

Each Contracting Party may ask for further information on a draft technical regulation notified in accordance with this Agreement.

ARTICLE 8

1. The Community and Slovenia may make comments upon the draft technical regulations communicated. The comments of Slovenia shall be forwarded to the Commission and the comments of the Community shall be forwarded by the Commission to the Slovenia.

2. The Member States and Slovenia shall take such comments into account as far as possible in the subsequent preparation of the technical regulation.

3. With respect to the technical specifications or other requirements or rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1, the comments of the Contracting Parties may concern only aspects which may hinder trade or, in respect of rules on services, the free movement of services or the freedom of establishment of service operators and not the fiscal or financial aspects of the measure.

4. The Commission shall, when a six-month standstill is invoked according to the rules set out in Directive 98/34/EC, inform the Slovenia thereof.

ARTICLE 9

The competent authorities of the Member States and Slovenia shall postpone the adoption of a draft technical regulation notified for three months from the date of receipt by the Commission of the text thereof.

ARTICLE 10

The standstill period referred to in Article 9 shall not apply in those cases where:

– for urgent reasons, occasioned by serious and unforeseeable circumstances relating to the protection of public health or safety, the protection of animals or the preservation of plants and, for rules on services, also for public policy, notably the protection of minors, the competent authorities are obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible or

– for urgent reasons occasioned by serious circumstances relating to the protection of the security and the integrity of the financial system, notably the protection of depositors, investors and insured persons, the competent authorities are obliged to enact and implement rules on financial services immediately.

The reasons which warrant the urgency of the measures taken shall be given. The justification for urgent measures shall be detailed and clearly explained with particular emphasis on the unpredictability and the seriousness of the danger confronting the concerned authorities as well as the absolute necessity for immediate action to remedy it.

ARTICLE 11

1. The final text in the original language of a technical regulation shall also be communicated.

2. The administrative arrangements for the abovementioned notifications and communications are set out in Annex III of this Agreement.

ARTICLE 12

1. Articles 3 to 10 shall not apply to those laws, regulations and administrative provisions of the Member States and Slovenia or voluntary agreements by means of which Member States or Slovenia:

– države članice izpolnijo obveznosti iz zavezujočih aktov Skupnosti, ki so bili razlog za sprejetje tehničnih specifikacij ali pravil o storitvah, Slovenija pa prenese v svoje notranje pravo akte Skupnosti, ki so bili razlog za sprejetje tehničnih specifikacij ali pravil o storitvah;

– države članice izpolnijo obveznosti, ki izhajajo iz mednarodnih sporazumov, posledica česar je sprejetje skupnih tehničnih specifikacij ali pravil o storitvah v Skupnosti;

– Slovenija izpolni obveznosti, ki izhajajo iz mednarodnih sporazumov, katerih posledica je sprejetje skupnih tehničnih specifikacij ali pravil o storitvah v Sloveniji in Skupnosti;

– države članice ali Slovenija uporabijo zaščitne določbe, predvidene v zavezujočih aktih Skupnosti;

– države članice ali Slovenija uporabijo prvi odstavek 8. člena Direktive 92/59/EGS[11],

– se države članice ali Slovenija omejijo na izvajanje posamezne sodbe Sodišča Evropskih skupnosti;

– se države članice ali Slovenija omejijo na spreminjanje posameznega tehničnega predpisa v smislu točke (f) 1. člena v skladu z zahtevo Komisije, da se odstrani ovira pri trgovanju, ali če gre za pravila o storitvah, pri prostem pretoku storitev ali svobodi ustanavljanja podjetij ponudnikov storitev.

2. 9. in 10. člen se ne uporabljata za zakone, predpise in upravne določbe držav članic in Slovenije, ki prepovedujejo izdelavo, če pri tem ne ovirajo prostega pretoka izdelkov.

3. 9. in 10. člen se ne uporabljata za tehnične specifikacije ali druge zahteve ali pravila o storitvah, navedene v tretji alineji drugega pododstavka točke (f) 1. člena.

13. ČLEN

Informacije po tem sporazumu se na zahtevo štejejo kot zaupne. Skupnost in Slovenija pa lahko prosita fizične ali pravne osebe, vključno z osebami iz zasebnega sektorja, za strokovno mnenje, če so sprejeti potrebni varnostni ukrepi.

14. ČLEN

1. Pogodbenici imata v okviru vzpostavljenega sodelovanja redna posvetovanja med strokovnjaki Skupnosti in Slovenije na področju tehničnih ovir pri trgovanju, da zagotovita zadovoljiv potek postopka, določenega s tem sporazumom, in izmenjavo mnenj o pripombah, ki jih je posamezna pogodbenica predložila glede osnutka tehničnega predpisa, o katerem je bilo poslano uradno obvestilo v skladu s tem sporazumom. Poleg tega lahko imata pogodbenici, če se tako dogovorita, dodatne sestanke ad hoc za obravnavo posebnih primerov, ki imajo za pogodbenici poseben pomen.

2. Republika Slovenija imenuje strokovnjaka, ki jo bo zastopal na sestankih odbora, ustanovljenega po 5. členu Direktive 98/34/ES, poglavji »storitve informacijske družbe« in »tehnični predpisi«. Strokovnjak mora biti uslužbenec državnih organov Slovenije. Strokovnjak nima pravice glasovanja.

3. Komisija v primernem času obvesti strokovnjaka o datumih sestankov in točkah dnevnega reda odbora. Komisija pošlje strokovnjaku ustrezne informacije.

4. Na pobudo predsedujočega se lahko odbor sestane, tudi če strokovnjak, ki zastopa Slovenijo, ni prisoten. S tem seznani Slovenijo.

[11] Direktiva Sveta 92/59/EGS z dne 29. junija 1992 o splošni varnosti proizvodov (UL L 228, 11. 8. 1992, str. 24).

– comply as far as the Member States are concerned with binding Community acts which result in the adoption of technical specifications or rules on services, and as far as Slovenia is concerned transpose into national law Community acts which result in the adoption of technical specifications or rules on services,

– fulfil as far as the Member States are concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in the Community,

– fulfil as far as Slovenia is concerned the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in Slovenia and the Community,

– make use of safeguard clauses provided for in binding Community acts,

– apply Article 8(1) of Directive 92/59/EEC [11],

– restrict themselves to implementing a judgement of the Court of Justice of the European Communities,

– restrict themselves to amending a technical regulation within the meaning of point (f) of Article 1, in accordance with a Commission request, with a view to removing an obstacle to trade or, in the case of rules on services, to the free movement of services or the freedom of establishment of service operators.

2. Articles 9 and 10 shall not apply to the laws, regulations and administrative provisions of the Member States and of Slovenia prohibiting manufacture insofar as they do not impede the free movement of products.

3. Article 9 and 10 shall not apply to the technical specifications or other requirements or the rules on services referred to in the third indent of the second subparagraph of point (f) of Article 1.

ARTICLE 13

Information supplied under this Agreement shall be considered as confidential upon request. However, both the Community and Slovenia may, provided that the necessary precautions are taken, consult for an expert opinion natural or legal persons, including persons in the private sector.

ARTICLE 14

1. The Contracting Parties shall, within the framework of the established cooperation between experts of the Community and Slovenia in the field of technical barriers to trade, hold regular consultations both to ensure the satisfactory functioning of the procedure laid down in this Agreement and to exchange views on the comments which have been submitted by a Contracting Party concerning a draft technical regulation notified in accordance with this Agreement. Furthermore, by common consent, the Contracting Parties may hold additional ad hoc meetings to deal with specific cases of particular interest to either Contracting Party.

2. The Republic of Slovenia shall appoint an expert to represent it in meetings of the Committee established under Article 5 of Directive 98/34/EC, part "information society services" and "technical regulations". The expert must be a member of the government services of Slovenia. The expert shall not be entitled to vote.

3. The Commission shall, in good time, inform the expert of the dates of the meetings, and of the items on the agenda of the Committee. The Commission shall forward relevant information to the expert.

4. On the initiative of its chairman, the Committee may meet without the expert representing Slovenia being present. In that case Slovenia shall be informed.

[11] Council Directive 92/59/EEC of 29 June 1992 on general product safety (OJ L 228, 11. 8. 1992, p. 24).

15. ČLEN

Ta sporazum velja na eni strani za območja, na katerih se uporablja pogodba o ustanovitvi Evropske skupnosti, in pod pogoji, določenimi v tej pogodbi, in na drugi strani za območje Slovenije.

16. ČLEN

Ta sporazum začne veljati prvi dan prvega meseca po dnevu, ko sta pogodbenici izmenjali noti, ki potrjujeta, da so končani postopki za začetek veljavnosti sporazuma.

17. ČLEN

Ta sporazum preneha veljati na dan pristopa Slovenije k Evropski uniji.

18. ČLEN

Ta sporazum je sestavljen v dveh izvirnikih v angleškem, danskem, finskem, francoskem, grškem, italijanskem, nemškem, nizozemskem, portugalskem, slovenskem, španskem in švedskem jeziku, pri čemer so vsa besedila enako verodostojna.

ARTICLE 15

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of Slovenia.

ARTICLE 16

This Agreement shall enter into force on the first day of the first month following the date on which the Contracting Parties have exchanged Notes confirming the completion of their respective procedures for the entry into force of this Agreement.

ARTICLE 17

This Agreement shall expire on the date of accession of Slovenia to the European Union.

ARTICLE 18

This Agreement is drawn up in two originals in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Slovenian languages, each text being equally authentic.

PRILOGA I

Okvirni seznam storitev, ki niso vključene v opredelitev v točki (b) 1. člena:

1. Storitve, ki se ne zagotavljajo »na daljavo«

Storitve, ki se zagotavljajo v fizični prisotnosti ponudnika in prejemnika, tudi če vključujejo uporabo elektronskih naprav:

(a) zdravniški pregledi ali zdravljenje v zdravniški ordinaciji z uporabo elektronske opreme, ko je bolnik fizično prisoten;

(b) ogled elektronskega kataloga v trgovini, če je odjemalec prisoten;

(c) rezervacija letalske vozovnice v potovalni agenciji v fizični prisotnosti odjemalca po računalniškem omrežju;

(d) elektronske igrice, ki so na voljo v igralnicah, če je odjemalec fizično prisoten.

2. Storitve, ki se ne zagotavljajo »z elektronskimi sredstvi«

Storitve z materialno obliko, čeprav se zagotavljajo z elektronskimi napravami:

(a) avtomati za gotovino ali vozovnice (bankovci, železniške vozovnice);

(b) dostop do cestnih omrežij, parkirišč itd., zaračunavanje uporabe, tudi če so na vhodu/izhodu elektronske naprave, ki nadzirajo dostop in/ali zagotavljajo, da se plačilo pravilno opravi.

Neomrežne storitve: prodaja cederomov ali programov na disketah

Storitve, ki se ne zagotavljajo s sistemi za elektronsko obdelavo/shranjevanje:

(a) storitve govorne telefonije;

(b) telefaksne/teleksne storitve;

(c) storitve, ki se zagotavljajo z govorno telefonijo ali telefaksom;

(d) posvet z zdravnikom po telefonu/telefaksu;

(e) posvet s pravnikom po telefonu/telefaksu;

(f) neposredno trženje po telefonu/telefaksu.

ANNEX I

Indicative list of services not covered by the definition in point (b) of Article 1

1. Services not provided "at a distance"

Services provided in the physical presence of the provider and the recipient, even if they involve the use of electronic devices:

(a) medical examinations or treatment at a doctor's surgery using electronic equipment where the patient is physically present;

(b) consultation of an electronic catalogue in a shop with the customer on site;

(c) plane ticket reservation at a travel agency in the physical presence of the customer by means of a network of computers;

(d) electronic games made available in a video-arcade where the customer is physically present.

2. Services not provided "by electronic means"

Services having material content even though provided via electronic devices:

(a) automatic cash or ticket dispensing machines (banknotes, rail tickets);

(b) access to road networks, car parks, etc., charging for use, even if there are electronic devices at the entrance/exit controlling access and/or ensuring correct payment is made.

Off-line services: distribution of CD roms or software on diskettes.

Services which are not provided via electronic processing/inventory systems:

(a) voice telephony services;

(b) telefax/telex services;

(c) services provided via voice telephony or fax;

(d) telephone/telefax consultation of a doctor;

(e) telephone/telefax consultation of a lawyer;

(f) telephone/telefax direct marketing.

3. Storitve, ki se ne zagotavljajo »na posamezno zahtevo prejemnika storitve«

Storitve, ki se zagotavljajo s prenosom podatkov brez zahteve posameznika, sočasno za neomejeno število posameznih prejemnikov (prenos od ene točke k več točkam):

(a) storitve televizijskega oddajanja (vključno z delnim videom na zahtevo), ki so vključeni v točko (a) 1. člena Direktive 89/552/EGS;

(b) storitve radijskega oddajanja;

(c) teletekst (na televiziji).

PRILOGA II

Okvirni seznam finančnih storitev, vključenih v opredelitev v točko (e) 1. člena:

– naložbene storitve;
– zavarovalni in pozavarovalni posli;
– bančne storitve;
– posli v zvezi s pokojninskimi skladi;
– storitve v zvezi s terminskimi posli ali opcijami.

Te storitve vključujejo zlasti:

(a) naložbene storitve iz priloge k Direktivi 93/22/EGS; storitve podjetij za skupna vlaganja;

(b) storitve, ki jih vključujejo dejavnosti, za katere velja medsebojno priznavanje iz priloge k Direktivi 2000/12/ES[12];

(c) posli, ki jih vključujejo zavarovalne in pozavarovalne dejavnosti iz:

– 1. člena Direktive 73/239/EGS[13],
– priloge k Direktivi 79/267/EGS[14],
– Direktive 64/225/EGS[15],
– direktiv 92/49/EGS[16] in 92/96/EGS[17].

3. Services not supplied "at the individual request of a recipient of services"

Services provided by transmitting data without individual demand for simultaneous reception by an unlimited number of individual receivers (point to multipoint transmission):

(a) television broadcasting services (including near-video on-demand services), covered by point (a) of Article 1 of Directive 89/552/EEC;

(b) radio broadcasting services;

(c) (televised) teletext.

ANNEX II

Indicative list of the financial services covered by the definition in point (e) of Article 1

– Investment services
– Insurance and reinsurance operations
– Banking services
– Operations relating to pension funds
– Services relating to dealings in futures or options

Such services include in particular:

(a) investment services referred to in the Annex to Directive 93/22/EEC; services of collective investment undertakings,

(b) services covered by the activities subject to mutual recognition referred to in the Annex to Directive 2000/12/EC[12],

(c) operations covered by the insurance and reinsurance activities referred to in:

– Article 1 of Directive 73/239/EEC [13],
– the Annex to Directive 79/267/EEC [14],
– Directive 64/225/EEC [15],
– Directives 92/49/EEC [16] and 92/96/EEC [17].

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[12] Direktiva 2000/12/ES Evropskega parlamenta in Sveta z dne 20. marca 2000 v zvezi z začetkom opravljanja in opravljanjem poslov kreditnih organizacij. Direktiva je bila spremenjena z Direktivo 2002/87/ES.

[13] Prva direktiva Sveta 73/239/EGS z dne 24. julija 1973 o uskladitvi zakonskih, podzakonskih in upravnih predpisov v zvezi z začetkom opravljanja in opravljanjem dejavnosti neposrednega zavarovanja razen življenjskega zavarovanja, (UL L 228, 16. 8. 1973, str. 3.) Direktiva je bila nazadnje spremenjena z Direktivo 92/49/EGS (UL L 228, 11. 8. 1992, str. 1).

[14] Prva direktiva Sveta (79/267/EGS) z dne 5. marca 1979 o uskladitvi zakonskih, podzakonskih in upravnih predpisov v zvezi z začetkom opravljanja in opravljanjem dejavnosti neposrednega življenjskega zavarovanja (UL L 63, 13. 3. 1979, str. 1). Direktiva je bila nazadnje spremenjena z Direktivo 90/619/EGS (UL L 330, 29. 11. 1990, str. 50).

[15] Direktiva Sveta 64/225/EGS z dne 25. februarja 1964 o odpravi omejitev glede svobode ustanavljanja in opravljanja storitev v zvezi s pozavarovanjem in retrocesijo (UL 56, 4. 4. 1964, str. 878/64). Direktiva je bila nazadnje spremenjena z Aktom o pristopu iz leta 1973.

[16] Direktiva Sveta 92/49/EGS z dne 18. junija 1992 o uskladitvi zakonskih, podzakonskih in upravnih predpisov v zvezi z neposrednim zavarovanjem razen življenjskega zavarovanja (UL L 228, 11. 8. 1992, str. 1).

[17] Direktiva Sveta 92/96/EGS z dne 10. novembra 1992 o uskladitvi zakonskih, podzakonskih in upravnih predpisov v zvezi z neposrednim življenjskim zavarovanjem (UL L 360, 9. 12. 1992, str. 1).

[12] Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions. Directive as amended by Directive 2002/87/EC.

[13] First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16. 8. 1973, p. 3). Directive as last amended by Directive 92/49/EEC (OJ L 228, 11. 8. 1992, p. 1).

[14] First Council Directive 79/267/EEC of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance (OJ L 63, 13. 3. 1979, p. 1). Directive as last amended by Directive 90/619/EEC (OJ L 330, 29. 11. 1990, p. 50).

[15] Council Directive 64/225/EEC of 25 February 1964 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession (OJ 56, 4. 4. 1964, p. 878/64). Directive as amended by the 1973 Act of Accession.

[16] Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (OJ L 228, 11. 8. 1992, p. 1).

[17] Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance (OJ L 360, 9. 12. 1992, p. 1).

PRILOGA III

V skladu z drugim odstavkom 11. člena sporazuma se šteje, da so potrebna navedena sporočila, poslana z elektronskimi sredstvi:

1) obrazci za uradno obvestilo; pošljejo se lahko pred prenosom celotnega besedila ali skupaj z njim;

2) celotno besedilo osnutka tehničnega predpisa, o katerem je bilo poslano uradno obvestilo;

3) potrdilo o prejemu osnutka besedila, ki med drugim vsebuje ustrezni datum poteka obdobja mirovanja;

4) sporočila, s katerimi se zahtevajo dodatne informacije;

5) odgovori na zahteve za dodatne informacije;

6) pripombe;

7) zahteve za sestanke ad hoc;

8) odgovore na zahteve za sestanke ad hoc;

9) zahteve za končna besedila;

10) obvestilo, da je razglašeno šestmesečno mirovanje iz četrtega odstavka 8. člena.

Naslednja sporočila se za zdaj lahko pošljejo po faksu, čeprav so elektronska sredstva bolj zaželena:

11) temeljna zakonska besedila ali podzakonske določbe,

12) končno besedilo.

Pogodbenici se dogovorita o podrobnostih postopkov glede sporočil.

ANNEX III

Pursuant to Article 11 (2) of the Agreement, the following communications by electronic means are considered necessary:

1) notification slips. They may be communicated before or together with the transmission of the full text;

2) the full text of the draft technical regulation notified;

3) acknowledgement of receipt of the draft text, containing inter alia, the relevant expiry date of the standstill period;

4) messages requesting supplementary information;

5) answers to request for supplementary information;

6) comments;

7) requests for ad hoc meetings;

8) answers to requests for ad hoc meetings;

9) requests for final texts;

10) information that a six-month standstill referred to in Article 8(4) has been called.

The following communications may, for the time being, be transmitted by fax, even though electronic means are preferable:

11) basic legal texts or regulatory provisions;

12) the final text;

The details of the administrative arrangements concerning the communications shall be jointly agreed on by the Contracting Parties.

3. člen

Za izvajanje sporazuma skrbi Ministrstvo za gospodarstvo.

4. člen

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

Št. 392-09/2004-2
Ljubljana, dne 15. aprila 2004
EVA 2004-1811-0146

Vlada Republike Slovenije

mag. Anton Rop l. r.
Predsednik

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