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25. Zakon o ratifikaciji Sporazuma med Evropsko unijo ter Republiko Islandijo in Kraljevino Norveško o postopku predaje med državami članicami Evropske unije ter Islandijo in Norveško (MSPP)

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 Sporazuma med Evropsko unijo ter Republiko Islandijo in Kraljevino Norveško o postopku predaje med državami članicami Evropske unije ter Islandijo in Norveško (MSPP)

Razglašam Zakon o ratifikaciji Sporazuma med Evropsko unijo ter Republiko Islandijo in Kraljevino Norveško o postopku predaje med državami članicami Evropske unije ter Islandijo in Norveško (MSPP), ki ga je sprejel Državni zbor Republike Slovenije na seji 6. februarja 2008.

Št. 003-02-2/2008-17
Ljubljana, dne 14. februarja 2008

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N

O RATIFIKACIJI SPORAZUMA MED EVROPSKO UNIJO TER REPUBLIKO ISLANDIJO IN KRALJEVINO NORVEŠKO O POSTOPKU PREDAJE MED DRŽAVAMI ČLANICAMI EVROPSKE UNIJE TER ISLANDIJO IN NORVEŠKO (MSPP)

1. člen

Ratificira se Sporazum med Evropsko unijo ter Republiko Islandijo in Kraljevino Norveško o postopku predaje med državami članicami Evropske unije ter Islandijo in Norveško podpisan 28. junija 2006 na Dunaju.

2. člen

Sporazum se v slovenskem jeziku in v angleškem jeziku glasi:

S P O R A Z U M

MED EVROPSKO UNIJO TER REPUBLIKO ISLANDIJO IN KRALJEVINO NORVEŠKO O POSTOPKU PREDAJE MED DRŽAVAMI ČLANICAMI EVROPSKE UNIJE TER ISLANDIJO IN NORVEŠKO

EVROPSKA UNIJA

na eni strani ter

REPUBLIKA ISLANDIJA

in

KRALJEVINA NORVEŠKA

na drugi strani,

v nadaljevanju "pogodbenice", so se –

V ŽELJI izboljšati pravosodno sodelovanje v kazenskih zadevah med državami članicami Evropske unije ter Islandijo in Norveško brez poseganja v pravila o varstvu osebne svobode;

OB UPOŠTEVANJU, da sedanji odnosi med pogodbenicami zahtevajo tesno sodelovanje v boju proti kriminalu;

A G R E E M E N T

BETWEEN THE EUROPEAN UNION AND THE REPUBLIC OF ICELAND AND THE KINGDOM OF NORWAY ON THE SURRENDER PROCEDURE BETWEEN THE MEMBER STATES OF THE EUROPEAN UNION AND ICELAND AND NORWAY

THE EUROPEAN UNION,

on the one hand, and

THE REPUBLIC OF ICELAND

and

THE KINGDOM OF NORWAY,

on the other hand,

hereinafter referred to as "the Contracting Parties",

WISHING to improve judicial cooperation in criminal matters between the Member States of the European Union and Iceland and Norway, without prejudice to the rules protecting individual freedom,

CONSIDERING that current relationships among the Contracting Parties require close cooperation in the fight against crime,

IZRAŽAJOČ medsebojno zaupanje v strukturo in delovanje svojih pravnih sistemov ter v sposobnost vseh pogodbenic, da zagotovijo pravično sojenje;

OB UPOŠTEVANJU, da sta Islandija in Norveška izrazili željo po pristopu k sporazumu, ki bi jima omogočil odpravo dogovorov z državami članicami Evropske unije o izročitvi osumljencev in storilcev kaznivih dejanj ter uporabo postopka predaje državam članicam;

OB UPOŠTEVANJU, da Evropska unija tudi meni, da je zaželeno imeti tak sporazum;

OB UPOŠTEVANJU, da je zato primerno vzpostaviti sistem za tak postopek predaje;

OB UPOŠTEVANJU, da so vse države članice ter Kraljevina Norveška in Republika Islandija podpisnice vrste konvencij na področju izročitve oseb, vključno z Evropsko konvencijo o izročitvi z dne 13. decembra 1957 in Evropsko konvencijo o zatiranju terorizma z dne 27. januarja 1977. Nordijske države imajo enotne zakone o izročitvi s skupnim pojmovanjem izročitve;

OB UPOŠTEVANJU, da mora biti raven sodelovanja v okviru Konvencije EU z dne 10. marca 1995 o poenostavljenem postopku izročitve in Konvencije EU z dne 27. septembra 1996 o izročitvi ohranjena povsod, kjer je ni možno dvigniti;

OB UPOŠTEVANJU, da morajo biti odločitve o izvršitvi naloga za prijetje, kakor so opredeljene v tem sporazumu, pod zadostnim nadzorom, kar pomeni, da bo pravosodni organ države, kjer bodo zahtevano osebo prijeli, moral odločiti o njeni predaji;

OB UPOŠTEVANJU, da mora biti vloga centralnih organov pri izvršitvi naloga za prijetje, kakor je opredeljena v tem sporazumu, omejena na praktično in administrativno pomoč;

OB UPOŠTEVANJU, da ta sporazum spoštuje temeljne pravice ter zlasti Evropsko konvencijo o človekovih pravicah in temeljnih svoboščinah.

Ta sporazum posamezni državi ne preprečuje uporabe njenih ustavnih pravil v zvezi z rednim sodnim postopkom, svobodo združevanja, svobodo tiska, svobodo izražanja v drugih medijih in borci za svobodo;

OB UPOŠTEVANJU, da se osebe državi ne sme izročiti, kadar obstaja resna nevarnost, da bi v tisti državi osebo obsodili na smrt, jo mučili ali z njo kako drugače nečloveško in poniževalno ravnali ali jo kaznovali;

OB UPOŠTEVANJU, da so vse države ratificirale Konvencijo Sveta Evrope o varstvu posameznikov v zvezi z avtomatsko obdelavo osebnih podatkov z dne 28. januarja 1981 in da morajo biti osebni podatki, ki se obdelajo v zvezi z izvajanjem tega sporazuma, varovani v skladu z načeli te konvencije –

DOGOVORILE O NASLEDNJEM:

POGLAVJE 1
SPLOŠNA NAČELA

ČLEN 1

Cilj in namen

1. Pogodbenice se zavezujejo, da bodo v skladu z določili tega sporazuma izboljšale postopek predaje zaradi uvedbe kazenskega postopka ali izvršitve kazni med državami članicami na eni strani ter Kraljevino Norveško in Republiko Islandijo na drugi strani z upoštevanjem določil Konvencije z dne 27. septembra 1996 o izročitvi med državami članicami Evropske unije kot minimalnih standardov.

EXPRESSING their mutual confidence in the structure and functioning of their legal systems and in the ability of all Contracting Parties to guarantee a fair trial,

CONSIDERING that Iceland and Norway have expressed their wish to enter into an agreement enabling them to expedite arrangements for handing over suspects and convicts with the Member States of the European Union and to apply a surrender procedure with the Member States,

CONSIDERING that the European Union also considers it desirable to have such an agreement in place,

CONSIDERING that it is therefore appropriate to set up a system for such surrender procedure,

CONSIDERING that all Member States and the Kingdom of Norway and the Republic of Iceland are parties to a number of conventions in the field of extradition, including the European Convention on extradition of 13 December 1957 and the European Convention on the suppression of terrorism of 27 January 1977. The Nordic States have uniform extradition laws with a common concept of extradition,

CONSIDERING that the level of cooperation under the EU Convention of 10 March 1995 on simplified extradition procedure and of the EU Convention of 27 September 1996 relating to extradition should be maintained where it is not possible to increase it,

CONSIDERING that decisions on the execution of the arrest warrant as defined by this Agreement must be subject to sufficient controls, which means that a judicial authority of the State where the requested person has been arrested should have to take the decision on his or her surrender,

CONSIDERING that the role of central authorities in the execution of an arrest warrant as defined by this Agreement should be limited to practical and administrative assistance,

CONSIDERING that this Agreement respects fundamental rights and in particular the European Convention on Human Rights and Fundamental Freedoms.

This Agreement does not prevent a State from applying its constitutional rules relating to due process, freedom of association, freedom of the press, freedom of expression in other media and freedom fighters,

CONSIDERING that no person should be surrendered to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment,

CONSIDERING that since all States have ratified the Council of Europe Convention of 28 January 1981 for the protection of individuals with regard to automatic processing of personal data, the personal data processed in the context of the implementation of this Agreement should be protected in accordance with the principles of the said Convention,

HAVE AGREED AS FOLLOWS:

CHAPTER 1
GENERAL PRINCIPLES

ARTICLE 1

Object and purpose

1. The Contracting Parties undertake to improve, in accordance with the provisions of this Agreement, the surrender for the purpose of prosecution or execution of sentence between, on the one hand, the Member States and, on the other hand, the Kingdom of Norway and the Republic of Iceland, by taking account of, as minimum standards, the terms of the Convention of 27 September 1996 relating to extradition between the Member States of the European Union.

2. Pogodbenice se zavezujejo, da bodo v skladu z določbami tega sporazuma in da bi zagotovile sistem izročitve med državami članicami na eni strani ter Kraljevino Norveško in Republiko Islandijo na drugi, tega zasnovale na mehanizmu predaje na podlagi naloga za prijetje v skladu s pogoji tega sporazuma.

3. Ta sporazum ne spreminja obveznosti, ki izhajajo iz spoštovanja temeljnih pravic in temeljnih pravnih načel, zapisanih v Evropski konvenciji o človekovih pravicah ali, če gre za posredovanje pravosodnih organov države članice, načel iz člena 6 Pogodbe o Evropski uniji.

4. Ničesar v tem sporazumu se ne sme razlagati kot prepoved zavrnitve predaje osebe, za katero je bil izdan nalog za prijetje, kakor ga opredeljuje ta sporazum, kadar na podlagi objektivnih pokazateljev obstajajo razlogi za domnevo, da je bil omenjeni nalog za prijetje izdan z namenom pregona ali kaznovanja osebe na podlagi njenega spola, rase, vere, etničnega izvora, državljanstva, jezika, političnega prepričanja ali spolne usmerjenosti ali da bo oseba zaradi katerega od teh razlogov v slabšem položaju.

ČLEN 2

Opredelitev pojmov

1. "Pogodbenice" so Evropska unija ter Kraljevina Norveška in Republika Islandija.

2. "Država članica" je država članica Evropske unije.

3. "Država" je država članica, Kraljevina Norveška ali Republika Islandija.

4. "Tretja država" je katera koli druga država, ki ni država iz odstavka 3.

5. "Nalog za prijetje" je sodna odločba, ki jo izda država zaradi prijetja in predaje zahtevane osebe s strani druge države z namenom uvedbe kazenskega postopka ali izvršitve kazni zapora ali ukrepa, vezanega na odvzem prostosti.

ČLEN 3

Področje uporabe

1. Nalog za prijetje se lahko izda za dejanja, ki se po pravu odreditvene države kaznujejo z zaporno kaznijo ali ukrepom, vezanim na odvzem prostosti, za najmanj 12 mesecev ali, kadar sta kazen ali ukrep odvzema prostosti izrečena, za kazni do najmanj štirih mesecev.

2. Predaja se brez poseganja v odstavka 3 in 4 pogojuje s tem, da so dejanja, za katera je bil izdan nalog za prijetje, kazniva dejanja po pravu izvršitvene države, ne glede na njihove sestavne elemente ali opis.

3. S pridržkom členov 4, 5(1)(b) do (g), 6, 7 in 8 država v nobenem primeru ne zavrne izvršitve naloga za prijetje, izdanega v zvezi z vedenjem katere koli osebe, ki prispeva k storitvi enega ali več kaznivih dejanj s strani skupine oseb, ki delujejo s skupnim ciljem, na področju terorizma iz členov 1 in 2 Evropske konvencije o zatiranju terorizma in členov 1, 2, 3 in 4 Okvirnega sklepa EU o boju proti terorizmu z dne 13. junija 2002, nedovoljenega trgovanja s prepovedanimi drogami in psihotropnimi snovmi ali umora, posebno hude telesne poškodbe, ugrabitve, protipravnega odvzema prostosti, jemanja talcev in posilstva, kar se kaznuje z odvzemom prostosti ali ukrepom, vezanim na odvzem prostosti, za najmanj 12 mesecev, tudi če ta oseba ne sodeluje pri dejanskem izvrševanju zadevnega ali zadevnih kaznivih dejanj; tak prispevek mora biti nameren in razvidno mora biti, da bo sodelovanje te osebe prispevalo k uresničevanju kriminalnih dejavnosti organizacije.

2. The Contracting Parties undertake, in accordance with the provisions of this Agreement, to ensure that the extradition system between, on the one hand, the Member States and, on the other hand, the Kingdom of Norway and the Republic of Iceland shall be based on a mechanism of surrender pursuant to an arrest warrant in accordance with the terms of this Agreement.

3. This Agreement shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in the European Convention on Human Rights, or, in case of execution by the judicial authority of a Member State, of the principles referred to in Article 6 of the Treaty on European Union.

4. Nothing in this Agreement should be interpreted as prohibiting refusal to surrender a person in respect of whom an arrest warrant as defined by this Agreement has been issued when there are reasons to believe, on the basis of objective elements, that the said arrest warrant has been issued for the purpose of prosecuting or punishing a person on the grounds of his or her sex, race, religion, ethnic origin, nationality, language, political opinions or sexual orientation, or that that person's position may be prejudiced for any of these reasons.

ARTICLE 2

Definitions

1. "Contracting Parties" shall mean the European Union and the Kingdom of Norway and the Republic of Iceland.

2. "Member State" shall mean a Member State of the European Union.

3. "State" shall mean a Member State, the Kingdom of Norway or the Republic of Iceland.

4. "Third State" shall mean any state other than a State as defined in paragraph 3.

5. "Arrest warrant" shall mean a judicial decision issued by a State with a view to the arrest and surrender by another State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order.

ARTICLE 3

Scope

1. An arrest warrant may be issued for acts punishable by the law of the issuing State by a custodial sentence or a detention order for a maximum period of at least 12 months or, where a sentence has been passed or a detention order has been made, for sentences of at least four months.

2. Without prejudice to paragraphs 3 and 4, surrender shall be subject to the condition that the acts for which the arrest warrant has been issued constitute an offence under the law of the executing State, whatever the constituent elements or however it is described.

3. Subject to Articles 4, 5(1)(b) to (g), 6, 7 and 8, in no case shall a State refuse to execute an arrest warrant issued in relation to the behaviour of any person who contributes to the commission by a group of persons acting with a common purpose of one or more offences in the field of terrorism referred to in Articles 1 and 2 of the European Convention on the Suppression of Terrorism and Articles 1, 2, 3 and 4 of the Framework Decision of 13 June 2002 on combating terrorism, illicit trafficking in narcotic drugs and psychotropic substances, or murder, grievous bodily injury, kidnapping, illegal restraint, hostage-taking and rape, punishable by deprivation of liberty or a detention order of a maximum of at least 12 months, even where that person does not take part in the actual execution of the offence or offences concerned; such contribution shall be intentional and made with the further knowledge that his or her participation will contribute to the achievement of the organisation's criminal activities.

4. Norveška in Islandija na eni strani ter EU, v imenu katere koli izmed svojih držav članic, na drugi strani lahko izjavijo, da se na podlagi vzajemnosti pogoj dvojne kaznivosti iz odstavka 2 ne bo uporabljal pod pogoji, ki so navedeni v nadaljevanju. Naslednja kazniva dejanja, če se v odreditveni državi kaznujejo s kaznijo zapora ali ukrepom, vezanim na odvzem prostosti, do najmanj treh let in kakor jih opredeljuje pravo odreditvene države, so po tem sporazumu in brez ugotavljanja dvojne kaznivosti storjenega dejanja razlog za predajo osebe na podlagi naloga za prijetje:

– sodelovanje v kriminalni združbi,
– terorizem,
– trgovanje z ljudmi,
– spolna zloraba otrok in otroška pornografija,
– nedovoljeno trgovanje s prepovedanimi drogami in psihotropnimi snovmi,
– nedovoljeno trgovanje z orožjem, strelivom in razstrelivi,
– korupcija,
– goljufije, vključno s tistimi, ki vplivajo na finančne interese Evropskih skupnosti v smislu Konvencije z dne 26. julija 1995 o zaščiti finančnih interesov Evropskih skupnosti,

– pranje prihodkov, pridobljenih s kaznivim dejanjem,
– ponarejanje denarja, vključno z eurom,
– računalniški kriminal,
– okoljski kriminal, vključno z nedovoljenim trgovanjem z ogroženimi živalskimi vrstami in ogroženimi rastlinskimi vrstami in sortami,
– omogočanje neupravičenega vstopa in bivanja,
– umor, posebno huda telesna poškodba,
– nedovoljeno trgovanje s človeškimi organi in tkivi,
– ugrabitev, protipraven odvzem prostosti in jemanje talcev,
– rasizem in ksenofobija,
– organiziran ali oborožen rop,
– nedovoljeno trgovanje s kulturnimi dobrinami, vključno s starinami in umetniškimi deli,
– prevara,
– izsiljevanje in oderuštvo,
– ponarejanje in neupravičena uporaba proizvodov,
– ponarejanje upravnih dokumentov in trgovanje z njimi,

– ponarejanje plačilnih sredstev,
– nedovoljeno trgovanje s hormonskimi snovmi in drugimi pospeševalci rasti,
– nedovoljeno trgovanje z jedrskimi ali radioaktivnimi snovmi,
– trgovanje z ukradenimi vozili,
– posilstvo,
– požig,
– kazniva dejanja v pristojnosti Mednarodnega kazenskega sodišča,
– protipravna ugrabitev letal/ladij,
– sabotaža.

ČLEN 4

Razlogi za obvezno neizvršitev naloga za prijetje

Države vzpostavijo obveznost izvršitvenega pravosodnega organa, da zavrne izvršitev naloga za prijetje v naslednjih primerih:

1. če za kaznivo dejanje, na katerem temelji nalog za prijetje, velja amnestija v izvršitveni državi, če je ta država pristojna za pregon tega dejanja po svojem kazenskem pravu;

4. Norway and Iceland, on the one hand, and the EU, on behalf of any of its Member States, on the other hand may make a declaration to the effect that, on the basis of reciprocity, the condition of double criminality referred to in paragraph 2 shall not be applied under the conditions set out hereafter. The following offences, if they are punishable in the issuing State by a custodial sentence or a detention order for a maximum period of at least three years and as they are defined by the law of the issuing State, shall, under the terms of this Agreement and without verification of the double criminality of the act, give rise to surrender pursuant to an arrest warrant:

– participation in a criminal organisation,
– terrorism,
– trafficking in human beings,
– sexual exploitation of children and child pornography,
– illicit trafficking in narcotic drugs and psychotropic substances,
– illicit trafficking in weapons, munitions and explosives,

– corruption,
– fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests,
– laundering of the proceeds of crime,
– counterfeiting currency, including of the euro,
– computer-related crime,
– environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,
– facilitation of unauthorised entry and residence,
– murder, grievous bodily injury,
– illicit trade in human organs and tissue,
– kidnapping, illegal restraint and hostage-taking,

– racism and xenophobia,
– organised or armed robbery,
– illicit trafficking in cultural goods, including antiques and works of art,
– swindling,
– racketeering and extortion,
– counterfeiting and piracy of products,
– forgery of administrative documents and trafficking therein,
– forgery of means of payment,
– illicit trafficking in hormonal substances and other growth promoters,
– illicit trafficking in nuclear or radioactive materials,

– trafficking in stolen vehicles,
– rape,
– arson,
– crimes within the jurisdiction of the International Criminal Court,
– unlawful seizure of aircraft/ships,
– sabotage.

ARTICLE 4

Grounds for mandatory non-execution of the arrest warrant

States shall establish an obligation for the executing judicial authority to refuse to execute the arrest warrant in the following cases:

1) if the offence on which the arrest warrant is based is covered by amnesty in the executing State, where that State had jurisdiction to prosecute the offence under its own criminal law;

2. če izvršitveni pravosodni organ dobi obvestilo, da je zahtevani osebi država izrekla pravnomočno sodbo za ista dejanja, pod pogojem, da je v primeru izrečene kazni ta kazen že prestana ali se prestaja ali se po zakonodaji kaznujoče države ne more več izvršiti;

3. če oseba, na katero se nalog za prijetje nanaša, po zakonodaji izvršitvene države zaradi svoje starosti ne more biti kazensko odgovorna za dejanja, na katerih temelji ta nalog.

ČLEN 5

Drugi razlogi za neizvršitev naloga za prijetje

1. Države lahko vzpostavijo obveznost ali možnost izvršitvenega pravosodnega organa, da zavrne izvršitev naloga za prijetje v naslednjih primerih:

(a) če v katerem od primerov iz člena 3(2) dejanje, na katerem temelji nalog za prijetje, po zakonu izvršitvene države ni kaznivo dejanje; vendar pa se v povezavi z davki in dajatvami, carino in deviznim poslovanjem izvršitev naloga za prijetje ne zavrne z razlogom, da zakonodaja izvršitvene države ne odmerja enakih davkov in dajatev ali da ne vsebuje enakih pravil glede davkov, dajatev ter carinskih in deviznih predpisov kot zakonodaja odreditvene države;

(b) kadar je oseba, na katero se nalog za prijetje nanaša, v izvršitveni državi v kazenskem postopku zaradi istega dejanja, kot je tisto, na katerem temelji nalog za prijetje;

(c) kadar pravosodne oblasti izvršitvene države sklenejo, da za dejanje, na katerem temelji nalog za prijetje, ne bodo uvedle kazenskega postopka ali da bodo postopek ustavile, ali kadar je bila zahtevani osebi v državi za ista dejanja izrečena pravnomočna sodba, ki onemogoča nadaljnji postopek;

(d) kadar sta kazenski pregon ali kaznovanje zahtevane osebe po pravu izvršitvene države zastarala in spadajo ta dejanja v pristojnost te države po njenem kazenskem pravu;

(e) če izvršitveni pravosodni organ dobi obvestilo, da je zahtevani osebi tretja država izrekla pravnomočno sodbo za ista dejanja, pod pogojem, da je v primeru izrečene kazni ta kazen že prestana ali se prestaja ali se po zakonodaji kaznujoče države ne more več izvršiti;

(f) če je nalog za prijetje izdan zaradi izvršitve zaporne kazni ali ukrepa, vezanega na odvzem prostosti, in se v primeru, ko se zahtevana oseba nahaja v izvršitveni državi ali je državljan ali prebivalec te države in se ta država zaveže, da bo izvršila kazen ali ukrep, vezan na odvzem prostosti, v skladu s svojim notranjim pravom;

(g) kadar nalog za prijetje zadeva kazniva dejanja, ki:

(i) se po zakonodaji izvršitvene države obravnavajo, kakor da so bila v celoti ali deloma storjena na ozemlju izvršitvene države ali na kraju, ki se kot tak šteje;

ali

(ii) so bila storjena zunaj ozemlja odreditvene države, zakonodaja izvršitvene države pa ne dovoljuje kazenskega pregona za ista kazniva dejanja, kadar so storjena zunaj njenega ozemlja.

2. Vsaka država obvesti generalni sekretariat Sveta, za katere razloge za neizvršitev iz odstavka 1 je vzpostavila obveznost svojega izvršitvenega pravosodnega organa, da zavrne izvršitev naloga za prijetje. Generalni sekretariat omogoči vsem državam in Komisiji dostop do prejetih informacij.

2) if the executing judicial authority is informed that the requested person has been finally judged by a State in respect of the same acts provided that, where there has been sentence, the sentence has been served or is currently being served or may no longer be executed under the law of the sentencing State;

3) if the person who is the subject of the arrest warrant may not, owing to his age, be held criminally responsible for the acts on which the arrest warrant is based under the law of the executing State.

ARTICLE 5

Other grounds for non-execution of the arrest warrant

1. States can establish an obligation or an option for the executing judicial authority to refuse to execute the arrest warrant in the following cases:

(a) if, in one of the cases referred to in Article 3(2), the act on which the arrest warrant is based does not constitute an offence under the law of the executing State; however, in relation to taxes or duties, customs and exchange, execution of the arrest warrant shall not be refused on the ground that the law of the executing State does not impose the same kind of tax or duty or does not contain the same type of rules as regards taxes, duties and customs and exchange regulations as the law of the issuing State;

(b) where the person who is the subject of the arrest warrant is being prosecuted in the executing State for the same act as that on which the arrest warrant is based;

(c) where the judicial authorities of the executing State have decided either not to prosecute for the offence on which the arrest warrant is based or to halt proceedings, or where a final judgement has been passed upon the requested person in a State, in respect of the same acts, which prevents further proceedings;

(d) where the criminal prosecution or punishment of the requested person is statute-barred according to the law of the executing State and the acts fall within the jurisdiction of that State under its own criminal law;

(e) if the executing judicial authority is informed that the requested person has been finally judged by a third State in respect of the same acts provided that, where there has been sentence, the sentence has been served or is currently being served or may no longer be executed under the law of the sentencing country;

(f) if the arrest warrant has been issued for the purposes of execution of a custodial sentence or detention order, where the requested person is staying in, or is a national or a resident of the executing State and that State undertakes to execute the sentence or detention order in accordance with its domestic law;

(g) where the arrest warrant relates to offences which:

(i) are regarded by the law of the executing State as having been committed in whole or in part in the territory of the executing State or in a place treated as such;

or

(ii) have been committed outside the territory of the issuing State and the law of the executing State does not allow prosecution for the same offences when committed outside its territory.

2. Each State shall inform the General Secretariat of the Council for which of the grounds of non-execution of paragraph 1, it has established an obligation for its executing judicial authorities to refuse the execution of an arrest warrant. The General Secretariat shall make the information received available to all States and the Commission.

ČLEN 6

Izjema za politična kazniva dejanja

1. Izvršitev se ne sme zavrniti z razlogom, da lahko izvršitvena država kaznivo dejanje šteje za politično kaznivo dejanje, kaznivo dejanje, povezano s političnim kaznivim dejanjem, ali kaznivo dejanje, spodbujeno s političnimi razlogi.

2. Norveška in Islandija na eni strani ter EU, v imenu katere koli izmed svojih držav članic, na drugi strani pa lahko izjavijo, da se bo odstavek 1 uporabljal le v zvezi s:

(a) kaznivimi dejanji iz členov 1 in 2 Evropske konvencije o zatiranju terorizma;

(b) kaznivimi dejanji zarote ali združevanja – kar ustreza opisu vedenja iz člena 3(3) – z namenom storitve enega ali več kaznivih dejanj iz členov 1 in 2 Evropske konvencije o zatiranju terorizma;

in

(c) členi 1, 2, 3 in 4 Okvirnega sklepa z dne 13. junija 2002 o boju proti terorizmu.

3. Ko je nalog za prijetje izdala država, ki je podala izjavo iz odstavka 2, ali država, v imenu katere je taka izjava bila podana, se lahko država, ki naj bi nalog za prijetje izvršila, sklicuje na recipročnost.

ČLEN 7

Izjema glede na državljanstvo

1. Izvršitev se ne more zavrniti z razlogom, da je zahtevana oseba državljan izvršitvene države.

2. Norveška in Islandija na eni strani ter Evropska unija, v imenu katere koli izmed svojih držav članic, na drugi strani lahko izjavijo, da državljani ne bodo predani ali da bo predaja dovoljena samo pod določenimi natančno opredeljenimi pogoji.

3. Ko je nalog za prijetje izdala država, ki je podala izjavo iz odstavka 2, ali država, za katero je taka izjava bila podana, lahko vsaka druga država uporabi recipročnost pri izvršitvi naloga za prijetje.

ČLEN 8

Jamstva, ki jih mora v določenih primerih dati odreditvena država

Za izvršitev naloga za prijetje, ki jo izvede izvršitveni pravosodni organ, lahko veljajo naslednji pogoji:

1. kadar je nalog za prijetje izdan zaradi izvršitve kazni ali ukrepa, vezanega na odvzem prostosti, ki ju odreja sodna odločba, izrečena v odsotnosti, in če zahtevana oseba ni bila osebno pozvana na obravnavo ali kako drugače ni bila obveščena o datumu in kraju obravnave, zaradi česar je bila odločba izdana v odsotnosti, se oseba lahko preda pod pogojem, da odreditveni pravosodni organ z ustreznim zagotovilom zajamči, da bo oseba, za katero je predvideno prijetje, imela možnost zaprositi za ponovno obravnavo svoje zadeve v odreditveni državi in biti navzoča pri izreku sodbe;

2. če se dejanje, za katerega je bil izstavljen nalog za prijetje, kaznuje z dosmrtno zaporno kaznijo ali doživljenjskim ukrepom, vezanim na odvzem prostosti, se omenjeni nalog za prijetje lahko izvrši pod pogojem, da bo odreditvena država z zagotovilom, ki je po mnenju izvršitvene države ustrezno, zajamčila revizijo izrečene kazni ali ukrepa na zahtevo ali najpozneje po dvajsetih letih ali spodbudila uporabo ukrepa pomilostitve, za katero lahko oseba po zakonodaji ali praksi odreditvene države upravičeno zaprosi, da se taka kazen ali ukrep ne izvrši;

ARTICLE 6

Political offence exception

1. Execution may not be refused on the ground that the offence may be regarded by the executing State as a political offence, as an offence connected with a political offence or an offence inspired by political motives.

2. Norway and Iceland, on the one hand, and the European Union, on behalf of any of its Member States, on the other hand, may make, however, a declaration to the effect that paragraph 1 will be applied only in relation to:

(a) the offences referred to in Articles 1 and 2 of the European Convention on the Suppression of Terrorism;

(b) offences of conspiracy or association – which correspond to the description of behaviour referred to in Article 3(3) – to commit one or more of the offences referred to in Articles 1 and 2 of the European Convention on the Suppression of Terrorism;

and

(c) Articles 1, 2, 3 and 4 of the Framework Decision of 13 June 2002 on combating terrorism.

3. Where an arrest warrant has been issued by a State having made a declaration as referred to in paragraph 2, or by a State on behalf of which such a declaration has been made, the State executing the arrest warrant, may apply reciprocity.

ARTICLE 7

Nationality exception

1. Execution may not be refused on the ground that the person claimed is a national of the executing State.

2. Norway and Iceland, on the one hand, and the European Union, on behalf of any of its Member States, on the other hand, may make a declaration to the effect that nationals will not be surrendered or that surrender will be authorised only under certain specified conditions.

3. Where an arrest warrant has been issued by a State having made a declaration as referred to in paragraph 2, or by a State for which such a declaration has been made, any other State may, in the execution of the arrest warrant, apply reciprocity.

ARTICLE 8

Guarantees to be given by the issuing State in particular cases

The execution of the arrest warrant by the executing judicial authority may be subject to the following conditions:

1) where the arrest warrant has been issued for the purposes of executing a sentence or a detention order imposed by a decision rendered *in absentia* and if the person concerned has not been summoned in person or otherwise informed of the date and place of the hearing which led to the decision rendered *in absentia*, surrender may be subject to the condition that the issuing judicial authority gives an assurance deemed adequate to guarantee the person who is the subject of the arrest warrant that he or she will have an opportunity to apply for a retrial of the case in the issuing State and to be present at the judgment;

2) if the offence on the basis of which the arrest warrant has been issued is punishable by custodial life sentence or life-time detention order the execution of the said arrest warrant may be subject to the condition that the issuing State gives an assurance deemed sufficient by the executing state that it will review the penalty or measure imposed, on request or at the latest after 20 years, or will encourage the application of measures of clemency to which the person is entitled to apply for under the law or practice of the issuing State, aiming at a non-execution of such penalty or measure;

3. kadar je oseba, na katero se nalog za prijetje nanaša z namenom uvedbe kazenskega postopka, državljan ali prebivalec izvršitvene države, se jo lahko preda pod pogojem, da se oseba po obravnavi vrne izvršitveni državi, da bi v njej prestajala zaporno kazen ali ukrep, vezan na odvzem prostosti, na katerega jo je obsodila odreditvena država.

ČLEN 9

Opredelitev pristojnih pravosodnih organov

1. Odreditveni pravosodni organ je pravosodni organ odreditvene države, ki je po pravu te države pristojen za odreditev naloga za prijetje.

2. Izvršitveni pravosodni organ je pravosodni organ izvršitvene države, ki je po pravu te države pristojen za izvršitev naloga za prijetje. Ob uradnem obvestilu iz člena 38(1) je lahko minister za pravosodje imenovan kot pristojni organ za izvršitev naloga za prijetje, ne glede na to, ali je minister za pravosodje pravosodni organ v skladu z notranjim pravom te države.

3. Pogodbenice se medsebojno obvestijo o pristojnih organih.

ČLEN 10

Udeležba centralnih organov

1. Pogodbenice se lahko medsebojno uradno obvestijo o centralnem organu vsake od držav, ki so tak organ opredelile, ali – ko to predvideva pravni sistem zadevne države – o več centralnih organih, ki pomagajo pristojnim pravosodnim organom.

2. Pri tem lahko pogodbenice navedejo, da so – zaradi organizacije notranjega pravosodnega sistema zadevnih držav – centralni organi odgovorni za administrativno pošiljanje in sprejem nalogov za prijetje, pa tudi za vso ostalo uradno korespondenco v zvezi z njimi. Te navedbe so zavezujoče za vse organe odreditvene države.

ČLEN 11

Vsebina in oblika naloga za prijetje

1. Nalog za prijetje vsebuje naslednje podatke, podane v skladu z obrazcem iz Priloge k temu sporazumu:

(a) identiteta in državljanstvo zahtevane osebe;

(b) naziv, naslov, številka telefona in telefaksa ter elektronski naslov odreditvenega pravosodnega organa;

(c) dokazilo o izvršljivi sodbi, nalogu za prijetje ali kateri koli drugi izvršljivi sodni odločbi z enakim učinkom, ki sodi v okvir členov 2 in 3;

(d) narava in pravna opredelitev kaznivega dejanja, zlasti glede na člen 3;

(e) opis okoliščin, v katerih je bilo kaznivo dejanje storjeno, vključno s časom, krajem in stopnjo vpletenosti zahtevane osebe;

(f) odmerjena kazen v primeru končne sodbe ali predpisane možne kazni, ki jih za to kaznivo dejanje predvideva zakonodaja odreditvene države;

(g) če je mogoče, druge posledice kaznivega dejanja.

2. Nalog za prijetje mora biti preveden v uradni jezik ali enega izmed uradnih jezikov izvršitvene države. Ob sklenitvi tega sporazuma ali pozneje lahko katera koli pogodbenica izjavi, da bo sprejela prevod v enega ali več drugih uradnih jezikov države.

3) where a person who is the subject of an arrest warrant for the purposes of prosecution is a national or resident of the executing State, surrender may be subject to the condition that the person, after being heard, is returned to the executing State in order to serve there the custodial sentence or detention order passed against him in the issuing State.

ARTICLE 9

Determination of the competent judicial authorities

1. The issuing judicial authority shall be the judicial authority of the issuing State which is competent to issue an arrest warrant by virtue of the law of that State.

2. The executing judicial authority shall be the judicial authority of the executing State which is competent to execute the arrest warrant by virtue of the law of that State. At the moment of notification referred to in Article 38(1), a Minister of Justice may be designated as a competent authority for the execution of an arrest warrant, whether or not the Minister of Justice is a judicial authority under the domestic law of that State.

3. The Contracting Parties shall inform each other of their competent authorities.

ARTICLE 10

Recourse to the central authority

1. The Contracting Parties may notify each other of the central authority for each State, having designated such an authority, or, when the legal system of the relevant State so provides, of more than one central authority to assist the competent judicial authorities.

2. In doing so the Contracting Parties may indicate that, as a result of the organisation of the internal judicial system of the relevant States, the central authority(ies) are responsible for the administrative transmission and reception of arrest warrants as well as for all other official correspondence relating thereto. These indications shall be binding upon all the authorities of the issuing State.

ARTICLE 11

Content and form of the arrest warrant

1. The arrest warrant shall contain the following information set out in accordance with the form contained in the Annex to this Agreement:

(a) the identity and nationality of the requested person;

(b) the name, address, telephone and fax numbers and e-mail address of the issuing judicial authority;

(c) evidence of an enforceable judgement, an arrest warrant or any other enforceable judicial decision having the same effect, coming within the scope of Articles 2 and 3;

(d) the nature and legal classification of the offence, particularly in respect of Article 3;

(e) a description of the circumstances in which the offence was committed, including the time, place and degree of participation in the offence by the requested person;

(f) the penalty imposed, if there is a final judgment, or the prescribed scale of penalties for the offence under the law of the issuing State;

(g) if possible, other consequences of the offence.

2. The arrest warrant must be translated into the official language or one of the official languages of the executing State. Any Contracting Party may, when this Agreement is concluded or at a later date, make a declaration to the effect that a translation in one or more other official languages of a State will be accepted.

POGLAVJE 2
POSTOPEK PREDAJE

ČLEN 12

Pošiljanje naloga za prijetje

1. Kadar je kraj nahajanja zahtevane osebe znan, lahko odreditveni pravosodni organ pošlje nalog za prijetje neposredno izvršitvenemu pravosodnemu organu.

2. Odreditveni pravosodni organ se lahko v vsakem primeru odloči, da za zahtevano osebo izda razpis ukrepa v schengenskem informacijskem sistemu (SIS).

Takšen razpis ukrepa se izda v skladu z ustreznimi določbami zakonodaje Evropske unije o izdaji razpisa ukrepa v schengenskem informacijskem sistemu (SIS) za namen predaje osebe. Razpis ukrepa v schengenskem informativnem sistemu je enakovreden nalogu za prijetje, opremljenemu s podatki iz člena 11(1).

3. V prehodnem obdobju, dokler SIS ni zmožen poslati vseh podatkov iz člena 11, je razpis ukrepa enakovreden nalogu za prijetje, dokler izvršitveni pravosodni organ ne prejme izvirnika v predpisani in ustrezni obliki.

ČLEN 13

Podrobnosti postopka pošiljanja naloga za prijetje

1. Če odreditveni pravosodni organ ne pozna pristojnega izvršitvenega pravosodnega organa, pridobi te podatke od izvršitvene države z ustreznimi poizvedbami.

2. Če ni mogoče uporabiti storitev SIS, lahko odreditveni pravosodni organ pošlje nalog za prijetje po Mednarodni organizaciji kriminalistične policije (Interpolu).

3. Odreditveni pravosodni organ lahko za pošiljanje naloga za prijetje uporabi vsako varovano sredstvo, po katerem je mogoče poslati pisne dokumente po pogojih, ki izvršitveni državi članici omogočijo ugotavljanje avtentičnosti.

4. Vse težave v zvezi s pošiljanjem ali avtentičnostjo katerega koli dokumenta, potrebnega za izvršitev naloga za prijetje, se rešujejo v neposrednih stikih med vpletenimi pravosodnimi organi ali, kjer je primerno, z udeležbo centralnih organov držav.

5. Če pravosodni organ, ki prejme nalog za prijetje, ni pristojen za ukrepanje v zvezi z njim, nalog za prijetje avtomatično pošlje pristojnemu organu v svoji državi ter o tem obvesti odreditveni pravosodni organ.

ČLEN 14

Pravice zahtevane osebe

1. Po prijetju zahtevane osebe izvršitveni pravosodni organ po pravu svoje države zahtevano osebo obvesti o nalogu za prijetje in o njegovi vsebini ter o možnosti soglašanja s predajo odreditvenemu pravosodnemu organu.

2. Zahtevana oseba, prijeta na podlagi naloga za prijetja, ima pravico do pravnega zastopnika in tolmača v skladu z notranjim pravom izvršitvene države.

ČLEN 15

Pridržanje osebe v priporu

Po prijetju zahtevane osebe na podlagi naloga za prijetje se izvršitveni pravosodni organ odloči, ali mora zahtevana oseba ostati v priporu v skladu s pravom izvršitvene države. Oseba je lahko kadarkoli začasno izpuščena na prostost v skladu z notranjim pravom izvršitvene države članice, pod pogojem, da pristojni organ te države z vsemi potrebnimi ukrepi osebi prepreči pobeg.

CHAPTER 2
SURRENDER PROCEDURE

ARTICLE 12

Transmission of an arrest warrant

1. When the location of the requested person is known, the issuing judicial authority may transmit the arrest warrant directly to the executing judicial authority.

2. The issuing judicial authority may, in any event, decide to issue an alert for the requested person in the Schengen Information System (SIS).

Such an alert shall be effected in accordance with the relevant provisions of European Union law on alerts in the Schengen Information System on persons for the purpose of surrender. An alert in the Schengen Information System shall be equivalent to an arrest warrant accompanied by the information set out in Article 11(1).

3. For a transitional period, until the SIS is capable of transmitting all the information described in Article 11, the alert shall be equivalent to an arrest warrant pending the receipt of the original in due and proper form by the executing judicial authority.

ARTICLE 13

Detailed procedures for transmitting an arrest warrant

1. If the issuing judicial authority does not know the competent executing judicial authority, it shall make the requisite enquiries, in order to obtain that information from the executing State.

2. If it is not possible to call on the services of the SIS, the issuing judicial authority may call on the International Criminal Police Organisation (Interpol) to transmit an arrest warrant.

3. The issuing judicial authority may forward the arrest warrant by any secure means capable of producing written records under conditions allowing the executing State to establish its authenticity.

4. All difficulties concerning the transmission or the authenticity of any document needed for the execution of the arrest warrant shall be dealt with by direct contacts between the judicial authorities involved, or, where appropriate, with the involvement of the central authorities of the States.

5. If the authority which receives an arrest warrant is not competent to act upon it, it shall automatically forward the arrest warrant to the competent authority in its State and shall inform the issuing judicial authority accordingly.

ARTICLE 14

Rights of a requested person

1. When a requested person is arrested, the executing competent judicial authority shall, in accordance with its national law, inform that person of the arrest warrant and of its contents, and also of the possibility of consenting to surrender to the issuing judicial authority.

2. A requested person who is arrested for the purpose of the execution of an arrest warrant shall have a right to be assisted by a legal counsel and by an interpreter in accordance with the national law of the executing State.

ARTICLE 15

Keeping the person in detention

When a person is arrested on the basis of an arrest warrant, the executing judicial authority shall take a decision on whether the requested person should remain in detention, in accordance with the law of the executing State. The person may be released provisionally at any time in conformity with the domestic law of the executing State, provided that the competent authority of the said State takes all the measures it deems necessary to prevent the person absconding.

ČLEN 16

Soglasje za predajo

1. Če prijeta oseba navede, da soglaša s svojo predajo, poda svoje soglasje in, kadar je primerno, izrecno odpoved pravicam, ki izhajajo iz "pravila specialnosti", omenjenega v členu 30(2), pred izvršitvenim pravosodnim organom v skladu z notranjim pravom izvršitvene države.

2. Vsaka država z ustreznimi ukrepi zagotovi, da sta soglasje in, kadar je primerno, odpoved iz odstavka 1 podana na način, ki kaže, da ju je prijeta oseba izrekla prostovoljno in zavedajoč se vseh posledic. V ta namen ima zahtevana oseba pravico do pravnega zastopnika.

3. Soglasje in, kadar je ustrezno, odpoved iz odstavka 1 se uradno zapišeta v skladu s postopkom, ki ga določa notranje pravo izvršitvene države.

4. Soglasja načeloma ni mogoče preklicati. Vsaka država lahko v skladu z veljavnimi pravili na podlagi svojega notranjega prava predvidi, da se soglasje in, kadar je ustrezno, odpoved, lahko prekličeta. V tem primeru se čas od datuma danega soglasja do datuma preklica ne upošteva pri uveljavljanju časovnih rokov iz člena 20. Norveška in Islandija na eni strani ter Evropska unija, v imenu katere koli izmed svojih držav članic, na drugi strani lahko ob obvestilu iz člena 38(1) izjavijo, da želijo uporabiti to možnost, in podrobno navedejo postopke, po katerih je mogoče preklicati soglasje, ter vse njihove spremembe.

ČLEN 17

Zaslišanje zahtevane osebe

Kadar prijeta oseba ne soglaša s predajo, kakor je navedeno v členu 16, ima pravico do zaslišanja pred izvršitvenim pravosodnim organom v skladu z zakonodajo izvršitvene države.

ČLEN 18

Odločitev o predaji

1. Izvršitveni pravosodni organ v časovnih rokih in pod pogoji, opredeljenimi v tem sporazumu, odloči, ali bo predal prijeto osebo.

2. Če izvršitveni pravosodni organ ugotovi, da podatki, ki mu jih je poslala odreditvena država, ne zadostujejo za odločitev o predaji, zahteva, da se mu nujno pošljejo potrebne dodatne informacije, zlasti v zvezi s členi 4 do 6, 8 in 11, ter lahko določi rok za njihovo prejetje, pri tem pa mora upoštevati časovne roke iz člena 20.

3. Odreditveni pravosodni organ lahko izvršitvenemu pravosodnemu organu kadar koli pošlje kakršen koli dodaten koristen podatek.

ČLEN 19

Odločitev v primeru več nalogov

1. Če sta dve ali je več držav izdalo evropski nalog za prijetje ali nalog za prijetje za isto osebo, o tem, katerega od nalogov za prijetje bo izvršil, odloči izvršitveni pravosodni organ, pri tem pa ustrezno upošteva vse okoliščine, še posebno sorazmerno težo in kraj kaznivih dejanj, datume posameznih nalogov za prijetje in dejstvo, ali je nalog izdan zaradi uvedbe kazenskega postopka ali zaradi izvršitve kazni zapora ali ukrepa, vezanega na odvzem prostosti.

2. Izvršitveni pravosodni organ lahko pri odločanju iz odstavka 1 poišče pravni nasvet pri Eurojustu.

ARTICLE 16

Consent to surrender

1. If the arrested person indicates that he or she consents to surrender, that consent and, if appropriate, express renunciation of entitlement to the "speciality rule", referred to in Article 30(2), shall be given before the executing judicial authority, in accordance with the domestic law of the executing State.

2. Each State shall adopt the measures necessary to ensure that consent and, where appropriate, renunciation, as referred to in paragraph 1, are established in such a way as to show that the person concerned has expressed them voluntarily and in full awareness of the consequences. To that end, the requested person shall have the right to legal counsel.

3. The consent and, where appropriate, renunciation, as referred to in paragraph 1, shall be formally recorded in accordance with the procedure laid down by the domestic law of the executing State.

4. In principle, consent may not be revoked. Each State may provide that consent and, if appropriate, renunciation may be revoked, in accordance with the rules applicable under its domestic law. In this case, the period between the date of consent and that of its revocation shall not be taken into consideration in establishing the time limits laid down in Article 20. Norway and Iceland, on the one hand, and the European Union, on behalf of any of its Member States, on the other hand, may make, at the time of notification provided for in Article 38(1), a declaration indicating that they wish to have recourse to this possibility, specifying the procedures whereby revocation of consent shall be possible and any amendment to them.

ARTICLE 17

Hearing of the requested person

Where the arrested person does not consent to his or her surrender as referred to in Article 16, he or she shall be entitled to be heard by the executing judicial authority, in accordance with the law of the executing State.

ARTICLE 18

Surrender decision

1. The executing judicial authority shall decide, within the time limits and under the conditions defined in this Agreement, whether the person is to be surrendered.

2. If the executing judicial authority finds the information communicated by the issuing State to be insufficient to allow it to decide on surrender, it shall request that the necessary supplementary information, in particular with respect to Articles 4 to 6, 8 and 11, be furnished as a matter of urgency and may fix a time limit for the receipt thereof, taking into account the need to observe the time limits set in Article 20.

3. The issuing judicial authority may at any time forward any additional useful information to the executing judicial authority.

ARTICLE 19

Decision in the event of multiple requests

1. If two or more States have issued a European arrest warrant or an arrest warrant for the same person, the decision as to which of the arrest warrants shall be executed shall be taken by the executing judicial authority with due consideration of all the circumstances and especially the relative seriousness and place of the offences, the respective dates of the arrest warrants and whether the warrant has been issued for the purposes of prosecution or for execution of a custodial sentence or detention order.

2. The executing judicial authority of a Member State may seek the advice of Eurojust when making the choice referred to in paragraph 1.

3. V primeru konkurence med nalogom za prijetje in zahtevo po izročitvi, ki jo je podala tretja država, o tem, ali ima prednost nalog za prijetje ali zahteva po izročitvi, odloči pristojni pravosodni organ izvršitvene države, pri tem pa ustrezno upošteva vse okoliščine, zlasti tiste iz odstavka 1 in tiste iz ustrezne konvencije.

4. Ta člen ne vpliva na obveznosti, ki jih imajo države po statutu Mednarodnega kazenskega sodišča.

ČLEN 20

Časovni roki in postopki pri odločitvi o izvršitvi naloga za prijetje

1. Nalog za prijetje je treba obravnavati in izvršiti kot nujno zadevo.

2. V primeru, ko zahtevana oseba soglaša s predajo, mora biti končna odločitev o izvršitvi naloga za prijetje sprejeta v 10 dneh po soglasju.

3. V drugih primerih mora biti končna odločitev o izvršitvi naloga za prijetje sprejeta v 60 dneh po prijetju zahtevane osebe.

4. Kadar se v posebnih primerih nalog za prijetje ne more izvršiti v časovnih rokih iz odstavkov 2 in 3, izvršitveni pravosodni organ o tem nemudoma obvesti odreditveni pravosodni organ in pojasni razloge za zamudo. V takem primeru se časovni rok lahko podaljša za dodatnih 30 dni.

5. Evropska unija lahko v imenu držav članic ob obvestilu iz člena 38(1) pripravi izjavo o tem, v katerih primerih se odstavka 3 in 4 ne bosta uporabljala. Norveška in Islandija lahko v zvezi z zadevnimi državami članicami uporabita načelo vzajemnosti.

6. Dokler izvršitveni pravosodni organ ne sprejme dokončne odločitve o nalogu za prijetje, mora zagotoviti, da ostanejo izpolnjeni materialni pogoji, potrebni za dejansko predajo osebe.

7. Pri vsaki zavrnitvi izvršitve naloga za prijetje se morajo navesti razlogi.

ČLEN 21

Razmere do odločitve

1. Kadar se nalog za prijetje odredi zaradi uvedbe kazenskega postopka, mora izvršitveni pravosodni organ:

(a) privoliti v zaslišanje zahtevane osebe v skladu s členom 22,

(b) ali privoliti v začasno premestitev zahtevane osebe.

2. Pogoje in trajanje začasne premestitve določita odreditveni in izvršitveni pravosodni organ v medsebojnem sporazumu.

3. V primeru začasne premestitve mora imeti oseba možnost vrnitve v izvršitveno državo, da bi se udeležila zaslišanj, ki so del postopka njene predaje.

ČLEN 22

Zaslišanje osebe do odločitve

1. Zahtevano osebo zasliši pravosodni organ, pri tem pa mu pomaga oseba, imenovana po pravu države sodišča, ki podaja zahtevo.

2. Zaslišanje zahtevane osebe poteka po pravu izvršitvene države in po pogojih, ki jih v medsebojnem sporazumu določita odreditveni in izvršitveni pravosodni organ.

3. In the event of a conflict between an arrest warrant and a request for extradition presented by a third State, the decision as to whether the arrest warrant or the extradition request takes precedence shall be taken by the competent authority of the executing State with due consideration of all the circumstances, in particular those referred to in paragraph 1 and those mentioned in the applicable convention.

4. This Article shall be without prejudice to States' obligations under the Statute of the International Criminal Court.

ARTICLE 20

Time limits and procedures for the decision to execute the arrest warrant

1. An arrest warrant shall be dealt with and executed as a matter of urgency.

2. In cases where the requested person consents to his surrender, the final decision on the execution of the arrest warrant should be taken within a period of 10 days after consent has been given.

3. In other cases, the final decision on the execution of the arrest warrant should be taken within a period of 60 days after the arrest of the requested person.

4. Where in specific cases the arrest warrant cannot be executed within the time limits laid down in paragraphs 2 or 3, the executing judicial authority shall immediately inform the issuing judicial authority thereof, giving the reasons for the delay. In such case, the time limits may be extended by a further 30 days.

5. The European Union, on behalf of any of its Member States, may make, at the time of notification provided for in Article 38(1), a declaration indicating in which cases paragraphs 3 and 4 will not apply. Norway and Iceland may apply reciprocity in relation to the Member States concerned.

6. As long as the executing judicial authority has not taken a final decision on the arrest warrant, it shall ensure that the material conditions necessary for effective surrender of the person remain fulfilled.

7. Reasons must be given for any refusal to execute an arrest warrant.

ARTICLE 21

Situation pending the decision

1. Where the arrest warrant has been issued for the purpose of conducting a criminal prosecution, the executing judicial authority must:

(a) either agree that the requested person should be heard according to Article 22;

(b) or agree to the temporary transfer of the requested person.

2. The conditions and the duration of the temporary transfer shall be determined by mutual agreement between the issuing and executing judicial authorities.

3. In the case of temporary transfer, the person must be able to return to the executing State to attend hearings concerning him or her as part of the surrender procedure.

ARTICLE 22

Hearing the person pending the decision

1. The requested person shall be heard by a judicial authority, assisted by another person designated in accordance with the law of the State of the requesting court.

2. The requested person shall be heard in accordance with the law of the executing State and with the conditions determined by mutual agreement between the issuing and executing judicial authorities.

3. Pristojni izvršitveni pravosodni organ lahko določi še drugi pravosodni organ v svoji državi, da sodeluje pri zaslišanju zahtevane osebe, da bi tako zagotovil pravilno uporabo tega člena in predpisanih pogojev.

ČLEN 23

Privilegiji in imunitete

1. Kadar zahtevana oseba uživa privilegij ali imuniteto v zvezi s pristojnostjo ali izvršitvijo v izvršitveni državi, začnejo teči časovni roki iz člena 20 šele z dnem, ko izvršitveni pravosodni organ dobi obvestilo o odpovedi privilegija ali imunitete.

2. Izvršitveni pravosodni organ zagotovi, da so materialni pogoji, potrebni za dejansko predajo, izpolnjeni, potem ko oseba preneha uživati privilegij ali imuniteto.

3. Kadar je za odpoved privilegija ali imunitete pooblaščen organ v izvršitveni državi, ga izvršitveni pravosodni organ zaprosi za takojšnjo odpoved. Kadar je za odpoved privilegija in imunitete pooblaščen organ druge države ali mednarodna organizacija, za odpoved zaprosi odreditveni pravosodni organ.

ČLEN 24

Konkurenčne mednarodne obveznosti

Ta sporazum ne vpliva na obveznosti izvršitvene države, kadar je zahtevano osebo tej državi izročila tretja država in kadar to osebo ščitijo tiste določbe dogovora o njeni izročitvi, ki zadevajo specialnost. Izvršitvena država sprejme vse potrebne ukrepe, da bi državo, ki ji je izročila zahtevano osebo, nemudoma zaprosila za soglasje glede predaje te osebe državi, ki je odredila nalog za prijetje. Časovni roki iz člena 20 začnejo teči šele z dnem, ko pravila specialnosti prenehajo veljati.

Dokler država, ki je zahtevano osebo izročila, ne sprejme odločitve, izvršitvena država zagotovi, da ostanejo izpolnjeni materialni pogoji, potrebni za dejansko predajo.

ČLEN 25

Uradno obvestilo o odločitvi

Izvršitveni pravosodni organ takoj uradno obvesti odreditveni pravosodni organ o svoji odločitvi glede ukrepov v zvezi z nalogom za prijetje.

ČLEN 26

Časovni roki za predajo osebe

1. Zahtevana oseba se preda v najkrajšem možnem času na dan, o katerem se dogovorita pravosodna organa.

2. Oseba se preda najpozneje v 10 dneh po končni odločitvi o izvršitvi naloga za prijetje.

3. Če predajo zahtevane osebe v časovnem roku iz odstavka 2 preprečijo okoliščine, na katere ena od držav nima vpliva, se izvršitveni in odreditveni pravosodni organ takoj povežeta med seboj in se dogovorita o novem datumu. V tem primeru se predaja opravi v roku 10 dni po dogovorjenem novem datumu.

4. Predaja se lahko izjemoma začasno preloži iz resnih humanitarnih razlogov, na primer kadar obstaja upravičen razlog za prepričanje, da bo vidno ogrozila življenje ali zdravje zahtevane osebe. Nalog za prijetje se izvrši, kakor hitro ti razlogi prenehajo. Izvršitveni pravosodni organ nemudoma obvesti odreditveni pravosodni organ in se dogovori o novem dnevu predaje. V tem primeru se predaja opravi v roku 10 dni po dogovorjenem novem datumu.

3. The competent executing judicial authority may assign another judicial authority of its State to take part in the hearing of the requested person in order to ensure the proper application of this Article and of the conditions laid down.

ARTICLE 23

Privileges and immunities

1. Where the requested person enjoys a privilege or immunity regarding jurisdiction or execution in the executing State, the time limits referred to in Article 20 shall not start running unless, and counting from the day when, the executing judicial authority is informed of the fact that the privilege or immunity has been waived.

2. The executing State shall ensure that the material conditions necessary for effective surrender are fulfilled when the person no longer enjoys such privilege or immunity.

3. Where power to waive the privilege or immunity lies with an authority of the executing State, the executing judicial authority shall request it to exercise that power forthwith. Where power to waive the privilege or immunity lies with an authority of another State or international organisation, it shall be for the issuing judicial authority to request it to exercise that power.

ARTICLE 24

Competing international obligations

This Agreement shall not prejudice the obligations of the executing State where the requested person has been extradited to that State from a third State and where that person is protected by provisions of the arrangement under which he or she was extradited concerning speciality. The executing State shall take all necessary measures for requesting forthwith the consent of the State from which the requested person was extradited so that he or she can be surrendered to the State which issued the arrest warrant. The time limits referred to in Article 20 shall not start running until the day on which these speciality rules cease to apply.

Pending the decision of the State from which the requested person was extradited, the executing State will ensure that the material conditions necessary for effective surrender remain fulfilled.

ARTICLE 25

Notification of the decision

The executing judicial authority shall notify the issuing judicial authority immediately of the decision on the action to be taken on the arrest warrant.

ARTICLE 26

Time limits for surrender of the person

1. The person requested shall be surrendered as soon as possible on a date agreed between the authorities concerned.

2. He or she shall be surrendered no later than 10 days after the final decision on the execution of the arrest warrant.

3. If the surrender of the requested person within the period laid down in paragraph 2 is prevented by circumstances beyond the control of any of the States, the executing and issuing judicial authorities shall immediately contact each other and agree on a new surrender date. In that event, the surrender shall take place within 10 days of the new date thus agreed.

4. The surrender may exceptionally be temporarily postponed for serious humanitarian reasons, for example if there are substantial grounds for believing that it would manifestly endangers the requested person's life or health. The execution of the arrest warrant shall take place as soon as these grounds have ceased to exist. The executing judicial authority shall immediately inform the issuing judicial authority and agree on a new surrender date. In that event, the surrender shall take place within 10 days of the new date thus agreed.

5. Če je po poteku časovnih rokov iz odstavkov 2 do 4 oseba še vedno v priporu, se oseba izpusti.

ČLEN 27

Preložena ali pogojna predaja

1. Izvršitveni pravosodni organ lahko potem, ko se odloči za izvršitev naloga za prijetje, preloži predajo zahtevane osebe, da bi ji lahko sodili v izvršitveni državi ali, če je oseba že obsojena, da bi lahko na ozemlju te države prestala kazen, ki ji je bila izrečena za kako drugo dejanje, kot je tisto v nalogu za prijetje.

2. Namesto da preloži predajo, lahko izvršitveni pravosodni organ zahtevano osebo začasno preda odreditveni državi pod pogoji, ki jih v medsebojnem sporazumu določita izvršitveni in odreditveni pravosodni organ. Sporazum je v pisni obliki, pogoji pa so zavezujoči za vse organe v odreditveni državi.

ČLEN 28

Prevoz oseb

1. Vsaka država dovoli prevoz prek svojega ozemlja za zahtevano osebo, ki se predaja, pod pogojem, da je dobila podatke o:

(a) identiteti in državljanstvu osebe, za katero je odrejen nalog za prijetje;

(b) obstoju naloga za prijetje;

(c) naravi in pravni opredelitvi kaznivega dejanja;

(d) opisu okoliščin kaznivega dejanja, vključno z datumom in krajem.

Država, v imenu katere je bila podana izjava v skladu s členom 7(2) o tem, da državljani ne bodo predani ali da bo predaja dovoljena samo pod določenimi natančno opredeljenimi pogoji, lahko pod istimi pogoji zavrne prevoz svojih državljanov čez svoje ozemlje ali v zvezi z njim postavi iste pogoje.

2. Pogodbenice se medsebojno obvestijo o organih, ki so imenovani za prejem zahtev za prevoz s spremljajočimi potrebnimi dokumenti ter vseh drugih uradnih dopisov v zvezi z zahtevami za prevoz.

3. Zahteva za prevoz in podatki iz odstavka 1 se organu, imenovanemu na podlagi odstavka 2, lahko pošljejo na kateri koli način, ki omogoča pošiljanje pisnih dokumentov. Tranzitna država pošlje uradno obvestilo o svoji odločitvi po isti poti.

4. Ta sporazum se ne uporablja v primeru zračnega prevoza brez načrtovanega vmesnega pristanka. Vendar v primeru nenačrtovanega pristanka odreditvena država pošlje podatke iz odstavka 1 organu, imenovanemu na podlagi odstavka 2.

5. Pri prevozu osebe, ki jo državi izroča tretja država, se ta člen uporablja smiselno. Zlasti za izraz "nalog za prijetje", kakor je opredeljen s tem sporazumom, velja, da se nadomesti z izrazom "zahteva po izročitvi".

POGLAVJE 3
POSLEDICE PREDAJE

ČLEN 29

Vštevanje pripora, prebitega v izvršitveni državi

1. Odreditvena država odšteje celoten čas pripora, ki je bil prebit od izvršitve naloga za prijetje, od celotnega časa pripora, ki ga mora oseba prestati v odreditveni državi po izrečeni kazni zapora ali ukrepa, vezanega na odvzem prostosti.

5. Upon expiry of the time limits referred to in paragraphs 2 to 4, if the person is still being held in custody he shall be released.

ARTICLE 27

Postponed or conditional surrender

1. The executing judicial authority may, after deciding to execute the arrest warrant, postpone the surrender of the requested person so that he or she may be prosecuted in the executing State or, if he or she has already been sentenced, so that he or she may serve, in its territory, a sentence passed for an act other than that referred to in the arrest warrant.

2. Instead of postponing the surrender, the executing judicial authority may temporarily surrender the requested person to the issuing State under conditions to be determined by mutual agreement between the executing and the issuing judicial authorities. The agreement shall be made in writing and the conditions shall be binding on all the authorities in the issuing State.

ARTICLE 28

Transit

1. Each State shall permit the transit through its territory of a requested person who is being surrendered provided that it has been given information on:

(a) the identity and nationality of the person subject to the arrest warrant;

(b) the existence of an arrest warrant;

(c) the nature and legal classification of the offence;

(d) the description of the circumstances of the offence, including the date and place.

The State, on behalf of which a declaration has been made in accordance with Article 7(2), to the effect that nationals will not be surrendered or that surrender will be authorised only under certain specified conditions, may, under the same terms, refuse the transit of its nationals through its territory or submit it to the same conditions.

2. The Contracting Parties shall notify each other of the authority designated for each State responsible for receiving transit requests and the necessary documents, as well as any other official correspondence relating to transit requests.

3. The transit request and the information set out in paragraph 1 may be addressed to the authority designated pursuant to paragraph 2 by any means capable of producing a written record. The State of transit shall notify its decision by the same procedure.

4. This Agreement does not apply in the case of transport by air without a scheduled stopover. However, if an unscheduled landing occurs, the issuing State shall provide the authority designated pursuant to paragraph 2 with the information provided for in paragraph 1.

5. Where a transit concerns a person who is to be extradited from a third State to a State this Article will apply mutatis mutandis. In particular the expression "arrest warrant" as defined by this Agreement shall be deemed to be replaced by "extradition request".

CHAPTER 3
EFFECTS OF THE SURRENDER

ARTICLE 29

Deduction of the period of detention served in the executing State

1. The issuing State shall deduct all periods of detention arising from the execution of an arrest warrant from the total period of detention to be served in the issuing State as a result of a custodial sentence or detention order being passed.

2. V ta namen izvršitveni pravosodni organ ali centralni organ, imenovan na podlagi člena 10, ob predaji osebe pošlje odreditvenemu pravosodnemu organu vse podatke v zvezi s trajanjem pripora zahtevane osebe na podlagi naloga za prijetje.

ČLEN 30

Možnost kazenskega pregona zaradi drugih kaznivih dejanj

1. Norveška in Islandija na eni strani ter Evropska unija, v imenu katere koli izmed svojih držav članic, na drugi strani, se lahko uradno medsebojno obvestijo, da v odnosih z drugimi državami, za katere se uporablja isto obvestilo, velja domneva o soglasju s kazenskim pregonom, sojenjem ali priporom z namenom izvršitve kazni zapora ali ukrepa, vezanega na odvzem prostosti, za dejanje, ki je bilo storjeno pred predajo osebe in se razlikuje od dejanja, zaradi katerega je bila oseba predana, razen če v posameznem primeru izvršitveni pravosodni organ v svoji odločitvi o predaji ne navede drugače.

2. Razen v primerih iz odstavkov 1 in 3 se predane osebe ne sme kazensko preganjati, kaznovati ali ji kako drugače odvzeti prostost za dejanje, ki je bilo storjeno pred predajo in se razlikuje od dejanja, zaradi katerega je bila predana.

3. Odstavek 2 se ne uporablja v naslednjih primerih:

(a) kadar oseba, ki ima možnost zapustiti ozemlje države, ki ji je bila predana, tega ne stori v 45 dneh po svoji dokončni izpustitvi ali se na to ozemlje po odhodu znova vrne;

(b) kaznivo dejanje se ne kaznuje s kaznijo zapora ali ukrepom, vezanim na odvzem prostosti;

(c) kazenski postopek ne daje podlage za uporabo ukrepov, vezanih na odvzem prostosti;

(d) kadar bi bila oseba kaznovana s kaznijo ali ukrepom, ki ne vključuje odvzema prostosti, zlasti denarne kazni ali kakega nadomestnega ukrepa, četudi bi lahko ta kazen ali ukrep povzročila omejevanje osebne prostosti;

(e) kadar se oseba, če je to ustrezno, hkrati s soglasjem o svoji predaji odpove pravilu specialnosti v skladu s členom 16;

(f) kadar se oseba po predaji izrecno odpove pravicam, ki izhajajo iz pravila specialnosti v zvezi s posameznimi dejanji, ki so bila storjena pred predajo. Odpovedna izjava se poda pred pristojnimi pravosodnimi organi odreditvene države in se zapiše v skladu z notranjim pravom te države. Izjava o odpovedi pravici se sestavi na način, ki jasno izkazuje, da jo je oseba podala prostovoljno in zavedajoč se vseh posledic. V ta namen ima oseba pravico do pravnega zagovornika;

(g) kadar izvršitveni pravosodni organ, ki je osebo predal, poda svoje soglasje v skladu z odstavkom 4.

4. Zahteva po soglasju se predloži izvršitvenemu pravosodnemu organu skupaj s podatki iz člena 11(1) in s prevodom iz člena 11(2). Soglasje se poda, kadar tudi za dejanje, za katerega se zahteva, veljajo določbe o predaji iz tega sporazuma. Soglasje se zavrne iz razlogov iz člena 4, sicer pa se lahko zavrne samo zaradi razlogov iz člena 5 ali členov 6(2) in 7(3). Odločitev se sprejme najpozneje 30 dni po prejemu zahteve. Za primere iz člena 8 mora odreditvena država dati zagotovila, predvidena s tem členom.

2. To that end, all information concerning the duration of the detention of the requested person on the basis of the arrest warrant shall be transmitted by the executing judicial authority or the central authority designated under Article 10 to the issuing judicial authority at the time of the surrender.

ARTICLE 30

Possible prosecution for other offences

1. Norway and Iceland, on the one hand, and the European Union, on behalf of any of its Member States, on the other hand, may notify each other that, for relations of States with other States to which the same notification applies, consent is presumed to have been given for the prosecution, sentencing or detention with a view to the carrying out of a custodial sentence or detention order for an offence committed prior to his or her surrender, other than that for which he or she was surrendered, unless in a particular case the executing judicial authority states otherwise in its decision on surrender.

2. Except in the cases referred to in paragraphs 1 and 3, a person surrendered may not be prosecuted, sentenced or otherwise deprived of his or her liberty for an offence committed prior to his or her surrender other than that for which he or she was surrendered.

3. Paragraph 2 does not apply in the following cases:

(a) when the person having had an opportunity to leave the territory of the State to which he or she has been surrendered has not done so within 45 days of his or her final discharge, or has returned to that territory after leaving it;

(b) the offence is not punishable by a custodial sentence or detention order;

(c) the criminal proceedings do not give rise to the application of a measure restricting personal liberty;

(d) when the person could be liable to a penalty or a measure not involving the deprivation of liberty, in particular a financial penalty or a measure in lieu thereof, even if the penalty or measure may give rise to a restriction of his or her personal liberty;

(e) when the person consented to be surrendered, where appropriate at the same time as he or she renounced the speciality rule, in accordance with Article 16;

(f) when the person, after his/her surrender, has expressly renounced entitlement to the speciality rule with regard to specific offences preceding his/her surrender. Renunciation shall be given before the competent judicial authorities of the issuing State and shall be recorded in accordance with that State's domestic law. The renunciation shall be drawn up in such a way as to make clear that the person has given it voluntarily and in full awareness of the consequences. To that end, the person shall have the right to legal counsel;

(g) where the executing judicial authority which surrendered the person gives its consent in accordance with paragraph 4.

4. A request for consent shall be submitted to the executing judicial authority, accompanied by the information mentioned in Article 11(1) and a translation as referred to in Article 11(2). Consent shall be given when the offence for which it is requested is itself subject to surrender in accordance with the provisions of this Agreement. Consent shall be refused on the grounds referred to in Article 4 and otherwise may be refused only on the grounds referred to in Articles 5, or 6(2) and 7(2). The decision shall be taken no later than 30 days after receipt of the request. For the situations mentioned in Article 8 the issuing State must give the guarantees provided for therein.

ČLEN 31

Predaja ali poznejša izročitev

1. Norveška in Islandija na eni strani ter Evropska unija, v imenu katere koli izmed svojih držav članic, na drugi strani, se lahko uradno medsebojno obvestijo, da v odnosih z drugimi državami, za katere se uporablja isto obvestilo, velja domneva o soglasju s predajo osebe državi, ki ni odreditvena država, na podlagi naloga za prijetje, odrejenega za dejanje, ki je bilo storjeno pred predajo osebe, razen če v posameznem primeru izvršitveni pravosodni organ v svoji odločitvi o predaji osebe ne navede drugače.

2. V vsakem primeru se lahko oseba, ki je bila predana odreditveni državi na podlagi naloga za prijetje, brez soglasja izvršitvene države preda državi, ki ni izvršitvena država, na podlagi naloga za prijetje, odrejenega za katero koli dejanje, ki je bilo storjeno pred njeno predajo, in sicer v naslednjih primerih:

(a) kadar zahtevana oseba, ki ima možnost zapustiti ozemlje države, ki ji je bila predana, tega ne stori v 45 dneh po svoji dokončni izpustitvi ali se na to ozemlje po odhodu znova vrne;

(b) kadar zahtevana oseba soglaša s svojo predajo državi, ki ni izvršitvena država, na podlagi naloga za prijetje. Soglasje se poda pred pristojnim pravosodnim organom odreditvene države in zapiše po nacionalnem pravu te države. Soglasje se poda na način, ki jasno izkazuje, da ga je prijeta oseba izrekla prostovoljno in zavedajoč se vseh posledic. V ta namen ima zahtevana oseba pravico do pravnega zastopnika;

(c) kadar za zahtevano osebo ne velja pravilo specialnosti v skladu s členom 30(3)(a), (e), (f) in (g).

3. Izvršitveni pravosodni organ soglaša s predajo osebe drugi državi v skladu z naslednjiimi pravili:

(a) zahteva po soglasju se predloži v skladu s členom 12 s podatki iz člena 11(1) in prevodom iz člena 11(2);

(b) soglasje se poda, kadar tudi za kaznivo dejanje, za katerega se zahteva, veljajo določbe o predaji iz tega sporazuma;

(c) odločitev o zahtevi se sprejme najpozneje v 30 dneh po prejemu zahteve;

(d) soglasje se zavrne iz razlogov iz člena 4, sicer pa se lahko zavrne samo zaradi razlogov iz člena 5 ali členov 6(2) in 7(2).

V primerih iz člena 8 mora odreditvena država dati zagotovila po tem členu.

4. Ne glede na odstavek 1 se oseba, ki je bila predana na podlagi naloga za prijetje, ne izroči tretji državi brez soglasja pristojnega pravosodnega organa države, ki je to osebo predala. To soglasje se poda v skladu s konvencijami, ki zavezujejo to državo, in z njenim notranjim pravom.

ČLEN 32

Predaja predmetov in premoženja

1. Na zahtevo odreditvenega pravosodnega organa ali na lastno pobudo izvršitveni pravosodni organ po pravu svoje države odvzame in izroči predmete in premoženje, ki:

(a) se lahko zahteva kot dokazno gradivo ali

(b) jo je zahtevana oseba pridobila s kaznivim dejanjem.

2. Predmeti in premoženje iz odstavka 1 se izroči tudi v primeru, ko se naloga za prijetje ne more izvršiti zaradi smrti ali bega zahtevane osebe.

ARTICLE 31

Surrender or subsequent extradition

1. Norway and Iceland, on the one hand, and the European Union, on behalf of any of its Member States, on the other hand, may notify each other that, for relations of States with other States to which the same notification applies, the consent for the surrender of a person to a State other than the executing State pursuant to an arrest warrant issued for an offence committed prior to his or her surrender is presumed to have been given, unless in a particular case the executing judicial authority states otherwise in its decision on surrender.

2. In any case, a person who has been surrendered to the issuing State pursuant to an arrest warrant may, without the consent of the executing State, be surrendered to a State other than the executing State pursuant to an arrest warrant issued for any offence committed prior to his or her surrender in the following cases:

(a) where the requested person, having had an opportunity to leave the territory of the State to which he or she has been surrendered, has not done so within 45 days of his final discharge, or has returned to that territory after leaving it;

(b) where the requested person consents to be surrendered to a State other than the executing State pursuant to an arrest warrant. Consent shall be given before the competent judicial authorities of the issuing State and shall be recorded in accordance with that State's national law. It shall be drawn up in such a way as to make clear that the person concerned has given it voluntarily and in full awareness of the consequences. To that end, the requested person shall have the right to legal counsel;

(c) where the requested person is not subject to the speciality rule, in accordance with Article 30(3)(a), (e), (f) and (g).

3. The executing judicial authority consents to the surrender to another State according to the following rules:

(a) the request for consent shall be submitted in accordance with Article 12, accompanied by the information mentioned in Article 11(1) and a translation as stated in Article 11(2);

(b) consent shall be given when the offence for which it is requested is itself subject to surrender in accordance with the provisions of this Agreement;

(c) the decision shall be taken no later than 30 days after receipt of the request;

(d) consent shall be refused on the grounds referred to in Article 4 and otherwise may be refused only on the grounds referred to in Articles 5 or 6(2) and 7(2).

For the situations referred to in Article 8, the issuing State must give the guarantees provided for therein.

4. Notwithstanding paragraph 1, a person who has been surrendered pursuant to an arrest warrant shall not be extradited to a third State without the consent of the competent authority of the State which surrendered the person. Such consent shall be given in accordance with the Conventions by which that State is bound, as well as with its domestic law.

ARTICLE 32

Handing over of property

1. At the request of the issuing judicial authority or on its own initiative, the executing judicial authority shall, in accordance with its national law, seize and hand over property which:

(a) may be required as evidence; or

(b) has been acquired by the requested person as a result of the offence.

2. The property referred to in paragraph 1 shall be handed over even if the arrest warrant cannot be carried out owing to the death or escape of the requested person.

3. Če je treba predmete in premoženje iz odstavka 1 odvzeti ali zapleniti na ozemlju izvršitvene države, lahko ta država predmete in premoženje, če jo potrebuje v zvezi z nedokončanim kazenskim postopkom, začasno zadrži ali jo izroči odreditveni državi pod pogojem, da jo ta vrne.

4. Ohranijo se vse pravice, ki jih izvršitvena država ali tretja stran pridobi do predmetov in premoženja iz odstavka 1. Kadar te pravice obstajajo, odreditvena država vrne predmete in premoženje brez zaračunavanja stroškov izvršitveni državi takoj po končanem kazenskem postopku.

ČLEN 33

Stroški

1. Stroške, ki nastanejo na ozemlju izvršitvene države zaradi izvršitve naloga za prijetje, krije ta država.

2. Vse ostale stroške krije odreditvena država.

3. If the property referred to in paragraph 1 is liable to seizure or confiscation in the territory of the executing State, the latter may, if the property is needed in connection with pending criminal proceedings, temporarily retain it or hand it over to the issuing State, on condition that it is returned.

4. Any rights which the executing State or third parties may have acquired in the property referred to in paragraph 1 shall be preserved. Where such rights exist, the issuing State shall return the property without charge to the executing State as soon as the criminal proceedings have been terminated.

ARTICLE 33

Expenses

1. Expenses incurred in the territory of the executing State for the execution of an arrest warrant shall be borne by that State.

2. All other expenses shall be borne by the issuing State.

POGLAVJE 4
SPLOŠNE IN KONČNE DOLOČBE

ČLEN 34

Razmerje do drugih pravnih instrumentov

1. Brez poseganja v uporabo konvencij v odnosih med državami in tretjimi državami ta sporazum od začetka veljavnosti nadomesti ustrezne določbe naslednjih konvencij, ki se uporabljajo na področju izročitve oseb v odnosih med Norveško in Islandijo na eni strani, ter državami članicami na drugi:

(a) Evropska konvencija o izročitvi z dne 13. decembra 1957, njen dodatni protokol z dne 15. oktobra 1975, njen drugi dodatni protokol z dne 17. marca 1978 in Evropska konvencija o zatiranju terorizma z dne 27. januarja 1977, v delu, v katerem ta konvencija ureja izročitev oseb, kakor je bila spremenjena s protokolom iz leta 2003, ko bo začel veljati;

(b) Poglavje 4 Naslova III Konvencije z dne 19. junija 1990 o izvajanju Schengenskega sporazuma z dne 14. junija 1985 o postopni odpravi kontrol na skupnih mejah;

(c) Določbe konvencij EU o izročitvi iz let 1995 in 1996, ki se nanašajo na Schengen in v meri, v kakršni še veljajo.

2. Države lahko tudi potem, ko bo ta sporazum sprejet, uporabljajo veljavne dvostranske in večstranske sporazume ali dogovore, če ti sporazumi in dogovori omogočajo širitev ciljev tega sporazuma ter pomagajo dodatno poenostaviti ali pospešiti postopke predaje oseb, na katere se nalogi za prijetje nanašajo. Pogodbenice se medsebojno uradno obvestijo o takih sporazumih ali dogovorih.

3. Države lahko sklenejo dvostranske in večstranske sporazume in dogovore tudi po začetku veljavnosti tega sporazuma, če ti sporazumi ali dogovori omogočajo razširitev predpisov tega sporazuma ter pomagajo še bolj poenostaviti in pospešiti postopke predaje oseb, na katere se nalogi za prijetje nanašajo, zlasti z določitvijo krajših časovnih rokov, kot so tisti iz člena 20, z razširitvijo seznama kaznivih dejanj iz člena 3(4), z dodatnim krčenjem razlogov za zavrnitev iz členov 4 in 5 ali z nižanjem praga, predvidenega v členu 3(1) ali (4).

Sporazumi in dogovori iz prvega pododstavka nikakor ne smejo vplivati na odnose z državami, ki niso njihove podpisnice.

Pogodbenice se medsebojno uradno obvestijo tudi o vseh takih novih sporazumih ali dogovorih iz prvega pododstavka, in sicer v treh mesecih po njihovem podpisu.

CHAPTER 4
GENERAL AND FINAL PROVISIONS

ARTICLE 34

Relation to other legal instruments

1. Without prejudice to their application in relations between States and third States, this Agreement shall, from its entry into force, replace the corresponding provisions of the following conventions applicable in the field of extradition in relations between Norway and Iceland, on the one hand, and Member States, on the other hand:

(a) the European Convention on Extradition of 13 December 1957, its additional protocol of 15 October 1975, its second additional protocol of 17 March 1978, and the European Convention on the suppression of terrorism of 27 January 1977 as far as extradition is concerned as amended by the 2003 Protocol once it will enter into force;

(b) Title III, Chapter 4 of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders;

(c) Schengen-relevant provisions of the 1995 and 1996 EU Extradition Conventions to the extent that they are in force.

2. States may continue to apply bilateral or multilateral agreements or arrangements in force when this Agreement is concluded in so far as such agreements or arrangements allow the objectives of this Agreement to be extended or enlarged and help to simplify or facilitate further the procedures for surrender of persons who are the subject of an arrest warrant. The Contracting Parties shall notify each other of any such agreements or arrangements.

3. States may conclude bilateral or multilateral agreements or arrangements after this Agreement has come into force in so far as such agreements or arrangements allow the prescriptions of this Agreement to be extended or enlarged and help to simplify or facilitate further the procedures for surrender of persons who are the subject of an arrest warrant, in particular by fixing time limits shorter than those fixed in Article 20, by extending the list of offences laid down in Article 3(4), by further limiting the grounds for refusal set out in Articles 4 and 5, or by lowering the threshold provided for in Article 3(1) or (4).

The agreements and arrangements referred to in the first subparagraph may in no case affect relations with States which are not parties to them.

The Contracting Parties shall also notify each other of any such new agreement or arrangement as referred to in the first subparagraph, within three months of signing it.

4. Kadar se konvencije in sporazumi iz odstavka 1 uporabljajo na tistih ozemljih držav ali na ozemljih, kjer je država odgovorna za njihove zunanje odnose, na katerih se ta sporazum ne uporablja, te listine še naprej urejajo obstoječe odnose med temi ozemlji in drugimi državami.

ČLEN 35

Prehodna določba

1. Zahteve za izročitev, sprejete pred začetkom veljavnosti tega sporazuma, bodo še naprej urejali obstoječi pravni akti o izročitvi. Zaprosila, prejeta po tem datumu, bo urejal ta sporazum.

2. Norveška in Islandija na eni strani ter Evropska unija, v imenu katere koli izmed svojih držav članic, na drugi strani lahko ob uradnem obvestilu iz člena 38(1) v izjavi navedejo, da bo država kot izvršitvena država v zvezi z dejanji, storjenimi pred datumom, ki ga ta država določi, še naprej uporabljala sistem izročitve, ki se uporablja do začetka veljavnosti tega sporazuma. Ta datum ne sme biti kasnejši od začetka veljavnosti tega sporazuma. Omenjena izjava se lahko kadar koli umakne.

ČLEN 36

Reševanje sporov

Vsak spor med Islandijo ali Norveško in državo članico Evropske unije glede tolmačenja ali izvajanja tega sporazuma lahko stranka v sporu predloži srečanju predstavnikov vlad držav članic Evropske unije ter Islandije in Norveške z namenom, da se reši v roku šestih mesecev.

ČLEN 37

Sodna praksa

Da bi dosegle cilj kolikor je mogoče enotne uporabe in tolmačenja določb tega sporazuma, pogodbenice stalno spremljajo razvoj sodne prakse Sodišča Evropskih skupnosti, pa tudi razvoj sodne prakse pristojnih sodišč Islandije in Norveške v zvezi s temi določbami in določbami podobnih pravnih aktov o predaji. V ta namen se vzpostavi mehanizem za zagotavljanje rednega sporočanja take sodne prakse.

ČLEN 38

Obvestila, izjave, začetek veljavnosti

1. Pogodbenice se medsebojno obvestijo o zaključku postopkov, potrebnih za izražanje njihovega soglasja, da jih ta sporazum zavezuje.

2. Ko podajo obvestila iz odstavka 1, pogodbenice podajo katero koli od uradnih objav ali izjav iz členov 5(2), 9(3), 28(2) in 34(2) tega sporazuma, in lahko podajo katero koli od uradnih objav ali izjav iz členov 3(4), 6(2), 7(2), 10(1), 11(2), 16(4), 20(5), 30(1), 31(1) in 35(2) tega sporazuma. Uradne objave ali izjave iz členov 3(4), 10(1) in 11(2) se lahko podajo kadar koli. Uradne objave ali izjave iz členov 9(3) in 28(2) se lahko kadar koli spremenijo, tiste iz členov 5(2), 6(2), 7(2), 10(1), 16(4), 20(5), 34(2) in 35(2) pa se lahko kadar koli umaknejo.

3. Ko tako izjavo ali objavo poda Evropska unija, navede, na katero od njenih držav članic se ta izjava nanaša.

4. Where the conventions or agreements referred to in paragraph 1 apply to the territories of States or to territories for whose external relations a State is responsible to which this Agreement does not apply, these instruments shall continue to govern the relations existing between those territories and the other States.

ARTICLE 35

Transitional provision

1. Extradition requests received before the date of entry into force of this Agreement will continue to be governed by existing instruments relating to extradition. Requests received after that date will be governed by this Agreement.

2. Norway and Iceland, on the one hand, and the European Union, on behalf of any of its Member States, on the other hand, may, at the time of the notification provided for in Article 38(1), make a statement indicating that, as executing State, the State will continue to apply the extradition system applicable before the entry into force of this Agreement in relation to acts committed before a date which it specifies. The date in question may not be later than the entry into force of this Agreement. The said statement may be withdrawn at any time.

ARTICLE 36

Dispute settlement

Any dispute between either Iceland or Norway and a Member State of the European Union regarding the interpretation or the application of this Agreement may be referred by a party to the dispute to a meeting of representatives of the governments of the Member States of the European Union and of Iceland and Norway, with a view to its settlement within six months.

ARTICLE 37

Case law

The Contracting Parties, in order to achieve the objective of arriving at as uniform an application and interpretation as possible of the provisions of this Agreement, shall keep under constant review the development of the case law of the Court of Justice of the European Communities, as well as the development of the case law of the competent courts of Iceland and Norway relating to these provisions and to those of similar surrender instruments. To this end a mechanism shall be set up to ensure regular mutual transmission of such case law.

ARTICLE 38

Notifications, declarations, entry into force

1. The Contracting Parties shall notify each other of the completion of the procedures required to express their consent to be bound by this Agreement.

2. When giving their notification under paragraph 1 the Contracting Parties shall make any of the notifications or declarations provided for in Articles 5(2), 9(3), 28(2) and 34(2) of this Agreement and may make any of the notifications or declarations provided for in Articles 3(4), 6(2), 7(2), 10(1), 11(2), 16(4), 20(5), 30(1), 31(1) and 35(2) of this Agreement. The declarations or notifications referred to in Articles 3(4), 10(1) and 11(2) may be made at any time. The declarations or notifications referred to in Articles 9(3) and 28(2) may be modified, and those referred to in Articles 5(2), 6(2), 7(2), 10(1), 16(4), 20(5), 34(2) and 35(2) withdrawn, at all times.

3. Where the European Union makes such declarations or notifications it shall indicate for which of its Member States the declaration applies.

4. Ta sporazum začne veljati prvi dan tretjega meseca po dnevu, na katerega je generalni sekretar Sveta Evropske unije ugotovil, da so bili izpolnjeni vsi formalni pogoji v zvezi z izrazi soglasja s strani pogodbenic tega sporazuma.

ČLEN 39

Pristop

S pristopom novih držav članic k Evropski uniji nastanejo pravice in obveznosti po tem sporazumu med temi novimi državami članicami ter Islandijo in Norveško.

ČLEN 40

Skupna revizija

Pogodbenice se strinjajo, da najkasneje 5 let po začetku veljavnosti tega sporazuma opravijo njegovo skupno revizijo in še zlasti revizijo izjav v skladu s členi 3(4), 6(2), 7(2) in 20(5) tega sporazuma. Če se izjave iz člena 7(2) ne obnovijo, se iztečejo 5 let po začetku veljavnosti tega sporazuma. Predmet revizije je zlasti praktična uporaba, tolmačenje in razvoj sporazuma in lahko vsebuje tudi vprašanja, kot so na primer posledice nadaljnjega razvoja Evropske unije na področju tega sporazuma.

ČLEN 41

Prenehanje

1. Pogodbenice lahko odpovejo ta sporazum. V primeru, da ga odpove Islandija ali Norveška, ta sporazum ostane v veljavi med Evropsko unijo in pogodbenicami, ki ga niso odpovedale.

2. Prenehanje sporazuma v skladu z odstavkom 1 začne veljati šest mesecev po deponiranju obvestila o odpovedi. Postopki za obravnavanje zahtev za predajo, ki so na ta datum še v teku, se zaključijo v skladu z določili tega sporazuma.

ČLEN 42

Depozitar

1. Depozitar tega sporazuma je generalni sekretar Sveta Evropske unije.

2. Depozitar objavi informacije o vseh uradnih obvestilih ali izjavah v zvezi s tem sporazumom.

Sestavljeno v Dunaju, dne 28. junija 2006, v enem izvodu v islandskem, norveškem, češkem, danskem, nizozemskem, nemškem, angleškem, estonskem, francoskem, finskem, grškem, madžarskem, irskem, italijanskem, latvijskem, litovskem, malteškem, poljskem, portugalskem, slovaškem, slovenskem, španskem in švedskem jeziku, pri čemer je vsaka različica enako verodostojna.

4. This Agreement shall enter into force on the first day of the third month following the day on which the Secretary-General of the Council of the European Union has established that all formal requirements concerning the expression of the consent by the Contracting Parties to this Agreement have been fulfilled.

ARTICLE 39

Accession

Accession by new Member States to the European Union shall create rights and obligations under the present Agreement between those new Member States and Iceland and Norway.

ARTICLE 40

Common review

The Contracting Parties agree to carry out a common review of this Agreement no later than 5 years after its entry into force, and in particular of the declarations made under Articles 3(4), 6(2), 7(2) and 20(5) of this Agreement. Where the declarations referred to in Article 7(2) are not renewed, they shall expire 5 years after the entry into force of this Agreement. The review shall in particular address the practical implementation, interpretation and development of the Agreement and may also include issues such as the consequences of further development of the European Union relating to the subject matter of this Agreement.

ARTICLE 41

Termination

1. This Agreement may be terminated by the Contracting Parties. In the event of termination by either Iceland or Norway, this Agreement shall remain in force between the European Union and the Contracting Party for which it has not been terminated.

2. Termination of this Agreement pursuant to paragraph 1 shall take effect six months after the deposit of the notification of termination. Procedures for complying with requests for surrender still pending at that date shall be completed in conformity with the provisions of this Agreement.

ARTICLE 42

Depository

1. The Secretary General of the Council of the European Union shall act as the depository of this Agreement.

2. The depository shall make public information on any notification or declaration made concerning this Agreement.

Done at Vienna on 28 June 2006 in one single copy in the Icelandic, Norwegian, Czech, Danish, Dutch, German, English, Estonian, French, Finnish, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, each version being equally authentic.

PRILOGA

NALOG ZA PRIJETJE[1]

Ta nalog je odredil pristojni pravosodni organ. Zahtevam prijetje spodaj omenjene osebe in njeno predajo zaradi uvedbe kazenskega postopka ali izvršitve kazni zapora ali ukrepa, vezanega na odvzem prostosti[2].

(a) Podatki o identiteti zahtevane osebe:

Ime: .....

Ime(–na): .....

Dekliški priimek, če se uporablja: .....

Vzdevki, če se uporabljajo: .....

Spol: .....

Državljanstvo: .....

Datum rojstva: .....

Kraj rojstva: .....

Bivališče in/ali znani naslov: .....

.....

Jeziki, ki jih zahtevana oseba razume (če so znani):

.....

Značilni znaki/opis zahtevane osebe: .....

.....

Fotografija in prstni odtisi zahtevane osebe, če so na razpolago in se lahko posredujejo, ali podatki o kontaktni osebi, od katere bi se lahko taki podatki pridobili, ali profil DNK (kjer se ta podatek lahko priskrbi, ni pa bil vključen).

(b) Odločba, na kateri temelji nalog:

1. Sklep o priporu ali pravosodna odločitev z enakim učinkom: ……
   Vrsta: .....

2. Izvršljiva sodba: .....
   .....
   Referenca: .....

---

[1] Nalog se mora uporabljati v okviru Sporazuma z dne 28. junija 2006 med Evropsko unijo ter Republiko Islandijo in Kraljevino Norveško o postopku predaje med državami članicami Evropske unije ter Islandijo in Norveško. Če pa pravosodni organ države članice Evropske unije želi v skladu s členom 12(2) in (3) Sporazuma za osebo izdati razpis ukrepa v schengenskem informacijskem sistemu, se za namene tega sporazuma obrazec za evropski nalog za prijetje, priložen Okvirnemu sklepu (2002/584/PNZ) z dne 13. junija 2002 o evropskem nalogu za prijetje in postopkih predaje med državami članicami, obravnava enako kot ta obrazec.

[2] Ta nalog mora biti napisan ali preveden v enega izmed uradnih jezikov izvršitvene države, kadar je ta država znana, ali v kateri koli drug jezik, sprejet s strani te države.

ANNEX

ARREST WARRANT [1]

This warrant has been issued by a competent judicial authority. I request that the person mentioned below be arrested and surrendered for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order [2].

(a) Information regarding the identity of the requested person:

Name: .....

Forename(s): .....

Maiden name, where applicable: .....

Aliases, where applicable: .....

Sex: .....

Nationality: .....

Date of birth: .....

Place of birth: .....

Residence and/or known address: .....

.....

Language(s) which the requested person understands (if known):

.....

Distinctive marks/description of the requested person: .....

.....

Photo and fingerprints of the requested person, if they are available and can be transmitted, or contact details of the person to be contacted in order to obtain such information or a DNA profile (where this evidence can be supplied but has not been included)

(b) Decision on which the warrant is based:

1. Arrest warrant or judicial decision having the same effect: .....

   Type: .....

2. Enforceable judgement: .....

   .....

   Reference: .....

---

[1] This warrant is to be used under the Agreement of 28 June 2006 between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway. However, when a judicial authority of a Member State of the European Union wants, in accordance with Article 12(2) and (3) of the Agreement to alert a person in the Schengen information System, the European arrest warrant form attached to the Framework Decision (2002/584/JHA) of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States shall be considered as equivalent to this format for the purpose of this Agreement.

[2] This warrant must be written in, or translated into, one of the official languages of the executing State, when that State is known, or any other language accepted by that State.

(c) Podatki o dolžini predpisane kazni:

1. Najvišja predpisana kazen zapora ali pripora, ki se lahko izreče za obravnavano kaznivo dejanje (obravnavani kaznivi dejanji/obravnavana kazniva dejanja):

.....
.....

2. Izrečena višina kazni zapora ali pripora:

.....

Višina še neprestane kazni: .....
.....
.....

(d) Odločitev sodišča, izrečena v odsotnosti, in:

– zadevna oseba je bila vabljena osebno ali je bila kako drugače obveščena o datumu in kraju zaslišanja, kar je privedlo do odločitve v odsotnosti,

ali

– zadevna oseba ni bila osebno ali kako drugače obveščena o datumu in kraju obravnave, kar je privedlo do odločitve v odsotnosti, vendar ima naslednja pravna jamstva po predaji (takšna jamstva se lahko dajo vnaprej) .....
Specifikacija pravnega jamstva .....
.....
.....

(e) Kazniva dejanja:

Ta nalog se nanaša na skupno: ..... kaznivih dejanj.

Opis okoliščin, v katerih je (so) bilo(–a) dejanje(–a) storjeno(–a), vključno s časom, krajem in vrsto udeležbe zahtevane osebe v kaznivem(–ih) dejanju(–ih):

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

Narava in pravna opredelitev kaznivega dejanja (kaznivih dejanj) in veljavna zakonska določba/predpis:

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

(c) Indications on the length of the sentence:

1. Maximum length of the custodial sentence or detention order which may be imposed for the offence(s):

.....

.....

2. Length of the custodial sentence or detention order imposed:

.....

Remaining sentence to be served: .....

.....

.....

(d) Decision rendered in absentia and:

– The person concerned has been summoned in person or otherwise informed of the date and place of the hearing which led to the decision rendered in absentia

or

– The person concerned has not been summoned in person or otherwise informed of the date and place of the hearing which led to the decision rendered in absentia but has the following legal guarantees after surrender (such guarantees can be given in advance) .....
Specify the legal guarantees .....

.....

.....

(e) Offences:

This warrant relates to in total: ..... offences.

Description of the circumstances in which the offence(s) was (were) committed, including the time, place and degree of participation in the offence(s) by the requested person

.....

.....

.....

Nature and legal classification of the offence(s) and the applicable statutory provision/code:

.....

.....

.....

I. Naslednje se uporablja samo, če sta tako odreditvena država kot izvršitvena država podali izjavo v skladu s členom 3(4) Sporazuma: po potrebi ustrezno odkljukati eno ali več kaznivih dejanj, ki se v odreditveni državi kaznujejo s kaznijo zapora ali ukrepom, vezanim na odvzem prostosti, do najmanj treh let, kakor jih opredeljujejo zakoni odreditvene države:

0 sodelovanje v kriminalni združbi;
0 terorizem;
0 trgovina z ljudmi;
0 spolna zloraba otrok in otroška pornografija;
0 nedovoljena trgovina s prepovedanimi drogami in psihotropnimi snovmi;
0 nedovoljena trgovina z orožjem, strelivom in eksplozivi;
0 korupcija;
0 goljufije, vključno s tistimi, ki ogrožajo finančne interese Evropskih skupnosti v smislu Konvencije z dne 26. julija 1995 o zaščiti finančnih interesov Evropskih skupnosti;
0 pranje prihodkov, pridobljenih s kaznivim dejanjem;
0 ponarejanje denarja, vključno z eurom
0 računalniški kriminal;
0 okoljski kriminal, vključno z nedovoljenim trgovanjem z ogroženimi živalskimi vrstami in ogroženimi rastlinskimi vrstami in sortami;
0 omogočanje nedovoljenega vstopa in bivanja;
0 umor, posebno huda telesna poškodba;
0 nedovoljeno trgovanje s človeškimi organi in tkivi;
0 ugrabitev, protipraven odvzem prostosti in jemanje talcev;
0 rasizem in ksenofobija;
0 organiziran ali oborožen rop;
0 nedovoljeno trgovanje s kulturnimi dobrinami, vključno s starinami in umetniškimi deli;
0 prevara;
0 izsiljevanje in oderuštvo;
0 ponarejanje in neupravičena uporaba proizvodov;
0 ponarejanje upravnih dokumentov in trgovanje z njimi;
0 ponarejanje plačilnih sredstev;
0 nedovoljeno trgovanje s hormonskimi snovmi in drugimi pospeševalci rasti;
0 nedovoljeno trgovanje z jedrskimi in radioaktivnimi snovmi;
0 trgovanje z ukradenimi vozili;
0 posilstvo;
0 požig;
0 kazniva dejanja v pristojnosti Mednarodnega kazenskega sodišča;
0 protipravna ugrabitev letal/ladij;
0 sabotaža.

II. Podroben opis kaznivega(–ih) dejanja(–), ki ni(–so) zajeto(–a) v oddeleku I zgoraj:
.....
.....

I. The following applies only in case both the issuing and the executing state have made a declaration under Article 3(4) of the Agreement: if applicable, tick one or more of the following offences punishable in the issuing State by a custodial sentence or detention order of a maximum of at least 3 years as defined by the laws of the issuing State:

0 participation in a criminal organisation;
0 terrorism;
0 trafficking in human beings;
0 sexual exploitation of children and child pornography;
0 illicit trafficking in narcotic drugs and psychotropic substances;
0 illicit trafficking in weapons, munitions and explosives;
0 corruption;
0 fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of European Communities' financial interests;
0 laundering of the proceeds of crime;
0 counterfeiting of currency, including the euro;
0 computer-related crime;
0 environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;
0 facilitation of unauthorised entry and residence;
0 murder, grievous bodily injury;
0 illicit trade in human organs and tissue;
0 kidnapping, illegal restraint and hostage-taking;
0 racism and xenophobia;
0 organised or armed robbery;
0 illicit trafficking in cultural goods, including antiques and works of art;
0 swindling;
0 racketeering and extortion;
0 counterfeiting and piracy of products;
0 forgery of administrative documents and trafficking therein;
0 forgery of means of payment;
0 illicit trafficking in hormonal substances and other growth promoters;
0 illicit trafficking in nuclear or radioactive materials;
0 trafficking in stolen vehicles;
0 rape;
0 arson;
0 crimes within the jurisdiction of the International Criminal Court;
0 unlawful seizure of aircraft/ships;
0 sabotage.

II. Full descriptions of offence(s) not covered by section I above:

.....

.....

(f) Druge okoliščine, pomembne za zadevo (neobvezni podatki):
(Opomba: Lahko obsegajo dejstva o eksteritorialnosti, prekinitvi zastaranja ali druge posledice kaznivih dejanj)
.....
.....

(g) Ta nalog zajema tudi zaseg in izročitev predmetov in premoženja, ki bi se lahko uporabila kot dokaz:

Ta nalog zajema tudi zaseg in izročitev predmetov in premoženja, ki jo je zahtevana oseba pridobila s kaznivim dejanjem:

Opis in označba predmetov in premoženja (ter kraj nahajanja) (če je znano):
.....
.....
.....

(h) Kaznivo dejanje (kaznivi dejanji/kazniva dejanja), zaradi katerega (katerih) je bil ta nalog odrejen, je (sta/so) kaznivo (kaznivi/kazniva) z dosmrtnim zaporom ali z dosmrtnim ukrepom, vezanim na odvzem prostosti:
odreditvena država bo na zahtevo izvršitvene države zagotovila:
– pregled izrečene kazni ali ukrepa – na zahtevo ali najpozneje po dvajsetih letih

in/ali

– spodbujanje uporabe ukrepa pomilostitve, za katerega lahko oseba po pravu ali praksi odreditvene države upravičeno zaprosi, da se taka kazen ali ukrep ne izvrši.

(i) Pravosodni organ, ki je odredil nalog:
Uradni naziv: .....
.....

Ime in priimek njegovega predstavnika[1]: .....
.....
Njegov položaj (naziv/stopnja):.....
.....
Referenčna številka: .....
Naslov:.....
.....
Tel. št.: (klicna številka države) (številka omrežne skupine) (...).....
Št. faksa: (klicna številka države) (številka omrežne skupine) ( ).....
E–pošta: .....
Kontaktna oseba, s katero se opravijo potrebni praktični dogovori o predaji: .....
.....

[1] V različne jezikovne različice se bo vključilo sklicevanje na pooblaščeno osebo.

(f) Other circumstances relevant to the case (optional information):
(NB: This could cover remarks on extraterritoriality, interruption of periods of time limitation and other consequences of the offence)
.....
.....

(g) This warrant pertains also to the seizure and handing over of property which may be required as evidence:

This warrant pertains also to the seizure and handing over of property acquired by the requested person as a result of the offence:

Description of the property (and location) (if known):
.....
.....
.....

(h) The offence(s) on the basis of which this warrant has been issued is(are) punishable by/has(have) led to a custodial life sentence or lifetime detention order:

the issuing State will upon request by the executing State give an assurance that it will:

– review the penalty or measure imposed – on request or at least after 20 years,

and/or

– encourage the application of measures of clemency to which the person is entitled to apply for under the law or practice of the issuing State, aiming at a non-execution of such penalty or measure.

(i) The judicial authority which issued the warrant:
Official name: .....
.....

Name of its representative [1]: .....
.....
Post held (title/grade): .....
.....
File reference: .....
Address: .....
.....
Tel. No.: (country code) (area/city code) (...) .....
Fax No. (country code) (area/city code) ( ) .....
E-mail .....

Contact details of the person to contact to make necessary practical arrangements for the surrender: .....
.....

[1] In the different language versions a reference to the "holder" of the judicial authority will be included.

Kadar je centralni organ odgovoren za pošiljanje in administrativno prejemanje naloga za prijetje:

Naziv osrednjega organa: .....
.....
Kontaktna oseba, če obstaja (naziv/funkcija in ime): .....
.....
Naslov: .....
.....
Tel. št.: (klicna številka države) (številka omrežne skupine) (...) .....
Št. faksa: (klicna številka države) (številka omrežne skupine) (...) .....
E–naslov: .....

Podpis odreditvenega pravosodnega organa in/ali njegovega predstavnika:
.....

Ime: .....
Njegov položaj (naziv/stopnja): .....
Datum: .....

Uradni žig (če je na voljo)

Where a central authority has been made responsible for the transmission and administrative reception of arrest warrants:

Name of the central authority: .....
.....
Contact person, if applicable (title/grade and name): .....
.....
Address: .....
.....
Tel. No.: (country code) (area/city code) (...) .....
Fax No.: (country code) (area/city code) (...) .....
E-mail: .....

Signature of the issuing judicial authority and/or its representative:
.....

Name: .....
Post held (title/grade): .....
Date: .....

Official stamp (if available)

Izjava pogodbenic k Sporazumu med Evropsko unijo ter Republiko Islandijo in Kraljevino Norveško o postopkih predaje med državami članicami Evropske unije ter Norveško in Islandijo:

"Pogodbenice se sporazumejo, da se bodo na ustrezen način posvetovale, ko bo Republika Islandija ali Kraljevina Norveška ali ena od držav članic Evropske unije menila, da je to primerno zaradi čim bolj učinkovite uporabe tega sporazuma, tudi z namenom, da se prepreči kakršen koli spor v zvezi s praktičnim izvajanjem in tolmačenjem tega sporazuma. To posvetovanje bo organizirano na najprimernejši način, ob upoštevanju obstoječih struktur sodelovanja."

Izjava Evropske unije:

"Evropska unija izjavlja, da bodo možnost iz drugega stavka člena 9(2), in sicer imenovanje ministra za pravosodje kot pristojnega organa za izvršitev naloga za prijetje, uporabljali zgolj Zvezna republika Nemčija, Kraljevina Danska, Republika Slovaška in Kraljevina Nizozemska.

Evropska unija izjavlja, da bodo države članice uporabljale člen 20(3) in (4) v skladu s svojimi nacionalnimi predpisi za podobne primere."

Declaration by the Contracting Parties to the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedures between the Member States of the European Union and Norway and Iceland:

"The Contracting Parties agree to consult, as appropriate, when the Republic of Iceland or the Kingdom of Norway or one of the Member States of the European Union considers that there is occasion to do so, to enable the most effective use to be made of this Agreement, including with a view to preventing any dispute regarding the practical implementation and interpretation of this Agreement. This consultation shall be organised in the most convenient way, taking into account the existing structures of cooperation.".

Declaration by the European Union:

"The European Union declares that the possibility pursuant to the second sentence of Article 9(2) to designate the Minister of Justice as competent authority for the execution of an arrest warrant will be used only by the Federal Republic of Germany, the Kingdom of Denmark, the Republic of Slovakia and the Kingdom of The Netherlands.

The European Union declares that the Member States will apply Article 20(3) and (4) in compliance with their national rules for similar cases.".

3. člen

Republika Slovenija ob deponiranju listine o ratifikaciji daje naslednje izjave:

Na podlagi četrtega odstavka člena 3 Republika Slovenija izjavlja, da se na podlagi vzajemnosti pogoj dvojne kaznivosti ne bo uporabljal pod pogoji, določenimi v četrtem odstavku člena 3 Sporazuma.

Na podlagi drugega odstavka člena 7 Republika Slovenija izjavlja, da v skladu s 47. členom Ustave Republike Slovenije, ne bo predajala državljanov Republike Slovenije.

4. člen

Republika Slovenija v zvezi s sporazumom obvesti o naslednjem:

Na podlagi drugega odstavka člena 5 Republika Slovenija Generalni sekretariat Sveta EU obvesti, da se predaja zahtevane osebe obvezno zavrne iz razlogov naštetih v prvi, drugi in tretji točki člena 4, iz razlogov naštetih v točkah a do f prvega odstavka člena 5 ter na podlagi drugega odstavka člena 7, predaja osebe pa se lahko zavrne iz razloga v točki g prvega odstavka člena 5.

Na podlagi tretjega odstavka člena 9 Republika Slovenija druge pogodbenice obvesti, da so odreditveni in izvršitveni organ v Republiki Sloveniji okrožna sodišča, pristojna za kazenske zadeve.

Na podlagi prvega odstavka člena 10 Republika Slovenija druge pogodbenice obvesti, da je centralni organ v Republiki Sloveniji Ministrstvo za pravosodje, ki je pristojno za pomoč sodiščem in tujim pravosodnim organom ter za izvedbo postopka pridobitve dovoljenja za prevoz ali postopka izdaje dovoljenja za prevoz.

Na podlagi drugega odstavka člena 28 Republika Slovenija druge pogodbenice obvesti, da je Ministrstvo za pravosodje Republike Slovenije pristojno za prejem zahtev za prevoz zahtevane osebe, ki jo ena država članica predaja drugi državi članici čez ozemlje Republike Slovenije.

Na podlagi drugega odstavka člena 34 Republika Slovenija druge pogodbenice obvesti, da v razmerju do pogodbenic nima sklenjenih veljavnih dvostranskih ali večstranskih sporazumov ali dogovorov, ki bi jih uporabljala tudi po sprejemu tega Sporazuma.

5. člen

Za izvajanje sporazuma skrbi Ministrstvo za pravosodje.

6. člen

Za izvajanje sporazuma se smiselno uporabljajo določbe zakona, ki ureja področje prijetja in predaje.

7. člen

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

Št. 713-01/07-16/1
Ljubljana, dne 6. februarja 2008
EPA 1817-IV

Predsednik
Državnega zbora
Republike Slovenije
France Cukjati, dr. med., l.r.

26. **Zakon o ratifikaciji Okvirne konvencije Sveta Evrope o vrednosti kulturne dediščine za družbo (MOKVKDD)**

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 Okvirne konvencije Sveta Evrope o vrednosti kulturne dediščine za družbo (MOKVKDD)

Razglašam Zakon o ratifikaciji Okvirne konvencije Sveta Evrope o vrednosti kulturne dediščine za družbo (MOKVKDD), ki ga je sprejel Državni zbor Republike Slovenije na seji 6. februarja 2008.

Št. 003-02-2/2008-15
Ljubljana, dne 14. februarja 2008

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N
O RATIFIKACIJI OKVIRNE KONVENCIJE SVETA EVROPE O VREDNOSTI KULTURNE DEDIŠČINE ZA DRUŽBO (MOKVKDD)

1. člen

Ratificira se Okvirna konvencija Sveta Evrope o vrednosti kulturne dediščine za družbo, sestavljena 27. oktobra 2005 v Faru.

2. člen

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

Council of Europe Framework Convention on the Value of Cultural Heritage for Society

Faro, 27. X. 2005

Preamble

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

Considering that one of the aims of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and fostering the ideals and principles, founded upon respect for human rights, democracy and the rule of law, which are their common heritage;

Recognising the need to put people and human values at the centre of an enlarged and cross-disciplinary concept of cultural heritage;

Emphasising the value and potential of cultural heritage wisely used as a resource for sustainable development and quality of life in a constantly evolving society;

Recognising that every person has a right to engage with the cultural heritage of their choice, while respecting the rights and freedoms of others, as an aspect of the right freely to participate in cultural life enshrined in the United Nations Universal Declaration of Human Rights (1948) and guaranteed by the International Covenant on Economic, Social and Cultural Rights (1966);

Convinced of the need to involve everyone in society in the ongoing process of defining and managing cultural heritage;

Convinced of the soundness of the principle of heritage policies and educational initiatives which treat all cultural heritages equitably and so promote dialogue among cultures and religions;

Okvirna konvencija Sveta Evrope o vrednosti kulturne dediščine za družbo

Faro, 27. X. 2005

Uvod

Države članice Sveta Evrope, podpisnice te konvencije, so se,

ker je eden od ciljev Sveta Evrope doseči večjo enotnost med njegovimi članicami za zaščito in spodbujanje idealov in načel, ki temeljijo na spoštovanju človekovih pravic, demokraciji in pravni državi, ki so njihova skupna dediščina;

ob priznavanju potrebe, da ljudi in človeške vrednote postavimo v središče razširjenega in interdisciplinarnega pojma kulturne dediščine;

ob poudarjanju vrednot in možnosti kulturne dediščine, ki se premišljeno uporablja kot vir za trajnostni razvoj in kakovost življenja v stalno razvijajoči se družbi;

ob priznavanju, da ima vsaka oseba pravico do kulturne dediščine po svoji izbiri, pri čemer spoštuje pravice in svoboščine drugih kot vidik pravice do svobodne udeležbe v kulturnem življenju, ki je določena v Splošni deklaraciji o človekovih pravicah (1948) in zagotovljena z Mednarodnim paktom o gospodarskih, socialnih in kulturnih pravicah (1966);

prepričane o potrebi po vključevanju vseh posameznikov v družbi v določanje in upravljanje kulturne dediščine;

prepričane o trdnosti dediščinskih politik in izobraževalnih pobud, ki kulturno dediščino obravnavajo pravično in tako spodbujajo dialog med kulturami in verstvi;

Referring to the various instruments of the Council of Europe, in particular the European Cultural Convention (1954), the Convention for the Protection of the Architectural Heritage of Europe (1985), the European Convention on the Protection of the Archaeological Heritage (1992, revised) and the European Landscape Convention (2000);

Convinced of the importance of creating a pan-European framework for co-operation in the dynamic process of putting these principles into effect;

Have agreed as follows:

Section I – Aims, definitions and principles

Article 1 – Aims of the Convention

The Parties to this Convention agree to:

a recognise that rights relating to cultural heritage are inherent in the right to participate in cultural life, as defined in the Universal Declaration of Human Rights;

b recognise individual and collective responsibility towards cultural heritage;

c emphasise that the conservation of cultural heritage and its sustainable use have human development and quality of life as their goal;

d take the necessary steps to apply the provisions of this Convention concerning:

– the role of cultural heritage in the construction of a peaceful and democratic society, and in the processes of sustainable development and the promotion of cultural diversity;

– greater synergy of competencies among all the public, institutional and private actors concerned.

Article 2 – Definitions

For the purposes of this Convention,

a cultural heritage is a group of resources inherited from the past which people identify, independently of ownership, as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions. It includes all aspects of the environment resulting from the interaction between people and places through time;

b a heritage community consists of people who value specific aspects of cultural heritage which they wish, within the framework of public action, to sustain and transmit to future generations.

Article 3 –The common heritage of Europe

The Parties agree to promote an understanding of the common heritage of Europe, which consists of:

a all forms of cultural heritage in Europe which together constitute a shared source of remembrance, understanding, identity, cohesion and creativity, and

b the ideals, principles and values, derived from the experience gained through progress and past conflicts, which foster the development of a peaceful and stable society, founded on respect for human rights, democracy and the rule of law.

Article 4 – Rights and responsibilities relating to cultural heritage

The Parties recognise that:

a everyone, alone or collectively, has the right to benefit from the cultural heritage and to contribute towards its enrichment;

b everyone, alone or collectively, has the responsibility to respect the cultural heritage of others as much as their own heritage, and consequently the common heritage of Europe;

c exercise of the right to cultural heritage may be subject only to those restrictions which are necessary in a democratic society for the protection of the public interest and the rights and freedoms of others.

glede na razne dokumente Sveta Evrope, zlasti Evropsko kulturno konvencijo (1954), Konvencijo o varstvu evropske stavbne dediščine (1985), Evropsko konvencijo o varstvu arheološke dediščine (1992, spremenjena in dopolnjena) in Evropsko konvencijo o krajini (2000);

prepričane o pomembnosti ustvarjanja vseevropskega okvira za sodelovanje v dinamičnem procesu uresničevanja teh načel,

dogovorile:

1. poglavje – Cilji, opredelitev pojmov in načela

1. člen – Cilji konvencije

Pogodbenice te konvencije se dogovorijo, da:

a) priznavajo, da so pravice do kulturne dediščine del pravice do udeležbe v kulturnem življenju, kakor je opredeljena v Splošni deklaraciji o človekovih pravicah;

b) priznavajo odgovornost posameznikov in skupnosti za kulturno dediščino;

c) poudarjajo, da sta človekov razvoj in kakovost življenja cilj ohranjanja kulturne dediščine in njene trajnostne uporabe;

d) sprejmejo potrebne ukrepe za uporabo določb te konvencije glede:

– vloge kulturne dediščine pri graditvi mirne in demokratične družbe ter trajnostnem razvoju in spodbujanju kulturne raznovrstnosti;

– bolj usklajenega sodelovanja med vsemi javnimi, institucionalnimi in zasebnimi dejavniki.

2. člen – Opredelitev pojmov

V tej konvenciji:

a) kulturna dediščina pomeni skupino virov, podedovanih iz preteklosti, ki jih ljudje neodvisno od lastništva opredelijo kot odsev in izraz svojih nenehno razvijajočih se vrednot, prepričanj, znanja in tradicij. Vključuje vse vidike okolja, ki izhajajo iz medsebojnega delovanja ljudi in krajev skozi čas;

b) dediščinsko skupnost sestavljajo ljudje, ki cenijo posamezne vidike kulturne dediščine ter jih želijo z javnim delovanjem ohranjati in prenašati prihodnjim rodovom.

3. člen – Skupna evropska dediščina

Pogodbenice se dogovorijo, da spodbujajo priznavanje skupne evropske dediščine, ki jo sestavljajo:

a) vse oblike kulturne dediščine v Evropi, ki so skupni temelj spomina, razumevanja, prepoznavanja, povezanosti in ustvarjalnosti, ter

b) ideali, načela in vrednote, ki izhajajo iz izkušenj, pridobljenih pri napredku in preteklih nesoglasjih, ter spodbujajo razvijanje mirne in stabilne družbe, ki temelji na spoštovanju človekovih pravic, demokracije in pravne države.

4. člen – Pravice in odgovornosti, povezane s kulturno dediščino

Pogodbenice priznavajo, da:

a) ima vsak posameznik ali skupnost pravico uživati kulturno dediščino in prispevati k njeni obogatitvi;

b) je vsak posameznik ali skupnost odgovoren za spoštovanje kulturne dediščine drugih prav tako kakor svoje lastne in s tem tudi skupne evropske dediščine;

c) za uresničevanje pravice do kulturne dediščine veljajo samo tiste omejitve, ki so v demokratični družbi potrebne za varstvo javne koristi ter pravic in svoboščin drugih.

Article 5 – Cultural heritage law and policies

The Parties undertake to:

a recognise the public interest associated with elements of the cultural heritage in accordance with their importance to society;

b enhance the value of the cultural heritage through its identification, study, interpretation, protection, conservation and presentation;

c ensure, in the specific context of each Party, that legislative provisions exist for exercising the right to cultural heritage as defined in Article 4;

d foster an economic and social climate which supports participation in cultural heritage activities;

e promote cultural heritage protection as a central factor in the mutually supporting objectives of sustainable development, cultural diversity and contemporary creativity;

f recognise the value of cultural heritage situated on territories under their jurisdiction, regardless of its origin;

g formulate integrated strategies to facilitate the implementation of the provisions of this Convention.

Article 6 – Effects of the Convention

No provision of this Convention shall be interpreted so as to:

a limit or undermine the human rights and fundamental freedoms which may be safeguarded by international instruments, in particular, the Universal Declaration of Human Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms;

b affect more favourable provisions concerning cultural heritage and environment contained in other national or international legal instruments;

c create enforceable rights.

Section II – Contribution of cultural heritage to society and human development

Article 7 – Cultural heritage and dialogue

The Parties undertake, through the public authorities and other competent bodies, to:

a encourage reflection on the ethics and methods of presentation of the cultural heritage, as well as respect for diversity of interpretations;

b establish processes for conciliation to deal equitably with situations where contradictory values are placed on the same cultural heritage by different communities;

c develop knowledge of cultural heritage as a resource to facilitate peaceful co-existence by promoting trust and mutual understanding with a view to resolution and prevention of conflicts;

d integrate these approaches into all aspects of lifelong education and training.

Article 8 – Environment, heritage and quality of life

The Parties undertake to utilise all heritage aspects of the cultural environment to:

a enrich the processes of economic, political, social and cultural development and land-use planning, resorting to cultural heritage impact assessments and adopting mitigation strategies where necessary;

b promote an integrated approach to policies concerning cultural, biological, geological and landscape diversity to achieve a balance between these elements;

c reinforce social cohesion by fostering a sense of shared responsibility towards the places in which people live;

5. člen – Pravo in politike kulturne dediščine

Pogodbenice se zavezujejo, da:

a) priznavajo javno korist, povezano s sestavinami kulturne dediščine v skladu z njenim pomenom za družbo;

b) povečujejo vrednost kulturne dediščine z identificiranjem, proučevanjem, interpretiranjem, varstvom, ohranjanjem in predstavljanjem javnosti;

c) glede na posebnosti vsake pogodbenice zagotavljajo zakonsko podlago za uresničevanje pravice do kulturne dediščine, določene v 4. členu;

d) spodbujajo gospodarske in socialne razmere, ki podpirajo sodelovanje pri dejavnostih, povezanih s kulturno dediščino;

e) spodbujajo varstvo kulturne dediščine kot osrednji dejavnik pri skupnih ciljih trajnostnega razvoja, kulturne raznovrstnosti in sodobne ustvarjalnosti;

f) priznavajo vrednost kulturne dediščine na ozemljih v svoji pristojnosti ne glede na izvor;

g) oblikujejo skupne strategije za lažje izvajanja te konvencije.

6. člen – Učinki konvencije

Nobena določba te konvencije se ne razlaga tako, da:

a) omejuje ali krati človekove pravice in temeljne svoboščine, ki jih zagotavljajo mednarodni dokumenti, zlasti Splošna deklaracija o človekovih pravicah in Konvencija o varstvu človekovih pravic in temeljnih svoboščin;

b) vpliva na ugodnejše določbe o kulturni dediščini in okolju, ki jih določa druga notranja zakonodaja ali mednarodni pravni dokumenti;

c) ustvarja uresničevanje pravic.

2. poglavje – Prispevek kulturne dediščine k družbi in človekovemu razvoju

7. člen – Kulturna dediščina in dialog

Pogodbenice se zavezujejo, da prek javnih organov ali drugih pristojnih teles:

a) spodbujajo razmislek o etiki in metodah predstavljanja kulturne dediščine ter spoštovanje različnosti razlag;

b) uvajajo spravne postopke za pravično obravnavo primerov, kadar različne skupnosti isti kulturni dediščini pripisujejo nasprotne vrednote;

c) razvijajo znanje o kulturni dediščini kot viru, ki omogoča mirno sožitje, s tem da spodbuja zaupanje in medsebojno razumevanje zaradi reševanja in preprečevanja nesoglasij;

d) vključujejo ta ravnanja v vse vidike vseživljenjskega izobraževanja in usposabljanja.

8. člen – Okolje, dediščina in kakovost življenja

Pogodbenice se zavezujejo, da uporabljajo vse vidike dediščine kulturnega okolja, zato da:

a) obogatijo gospodarski, politični, socialni in kulturni razvoj ter načrtovanje rabe prostora, pri čemer po potrebi upoštevajo ocene vpliva kulturne dediščine in sprejmejo strategije za ublažitev škode;

b) spodbujajo skupen pristop k politikam o kulturni, biotski, geološki in krajinski raznovrstnosti za doseganje ravnotežja med njimi;

c) okrepijo povezanost družbe s spodbujanjem občutka za soodgovornost za kraje, v katerih ljudje živijo;

d promote the objective of quality in contemporary additions to the environment without endangering its cultural values.

Article 9 – Sustainable use of the cultural heritage

To sustain the cultural heritage, the Parties undertake to:

a promote respect for the integrity of the cultural heritage by ensuring that decisions about change include an understanding of the cultural values involved;

b define and promote principles for sustainable management, and to encourage maintenance;

c ensure that all general technical regulations take account of the specific conservation requirements of cultural heritage;

d promote the use of materials, techniques and skills based on tradition, and explore their potential for contemporary applications;

e promote high-quality work through systems of professional qualifications and accreditation for individuals, businesses and institutions.

Article 10 – Cultural heritage and economic activity

In order to make full use of the potential of the cultural heritage as a factor in sustainable economic development, the Parties undertake to:

a raise awareness and utilise the economic potential of the cultural heritage;

b take into account the specific character and interests of the cultural heritage when devising economic policies; and

c ensure that these policies respect the integrity of the cultural heritage without compromising its inherent values.

Section III – Shared responsibility for cultural heritage and public participation

Article 11 –The organisation of public responsibilities for cultural heritage

In the management of the cultural heritage, the Parties undertake to:

a promote an integrated and well-informed approach by public authorities in all sectors and at all levels;

b develop the legal, financial and professional frameworks which make possible joint action by public authorities, experts, owners, investors, businesses, non-governmental organisations and civil society;

c develop innovative ways for public authorities to cooperate with other actors;

d respect and encourage voluntary initiatives which complement the roles of public authorities;

e encourage non-governmental organisations concerned with heritage conservation to act in the public interest.

Article 12 – Access to cultural heritage and democratic participation

The Parties undertake to:

a encourage everyone to participate in:

– the process of identification, study, interpretation, protection, conservation and presentation of the cultural heritage;

– public reflection and debate on the opportunities and challenges which the cultural heritage represents;

b take into consideration the value attached by each heritage community to the cultural heritage with which it identifies;

c recognise the role of voluntary organisations both as partners in activities and as constructive critics of cultural heritage policies;

d) spodbujajo doseganje večje kakovosti pri sodobnem dopolnjevanju okolja brez ogrožanja njegovih kulturnih vrednot.

9. člen – Trajnostna raba kulturne dediščine

Pogodbenice se za ohranitev kulturne dediščine zavezujejo, da:

a) spodbujajo spoštovanje celovitosti kulturne dediščine, s tem da omogočajo vključevanje razumevanja njenih kulturnih vrednot v odločitve o spremembah;

b) določajo in podpirajo načela trajnostnega upravljanja in spodbujajo ohranjanje;

c) zagotavljajo, da bodo vsi splošni tehnični predpisi upoštevali posebne zahteve po ohranjanju kulturne dediščine;

d) spodbujajo uporabo materiala, tehnologij in veščin, ki temeljijo na tradiciji, in proučujejo možnosti za njihovo sodobno uporabo;

e) spodbujajo kakovostno delo s pomočjo sistemov poklicnega usposabljanja in dovoljenj za delo posameznikov, podjetij in ustanov.

10. člen – Kulturna dediščina in gospodarska dejavnost

Da bi kar najbolje izkoristili možnosti kulturne dediščine kot dejavnika trajnostnega gospodarskega razvoja, se pogodbenice zavezujejo, da:

a) krepijo zavest o gospodarskih zmožnostih kulturne dediščine in jih uporabljajo;

b) priznavajo posebnosti in koristi kulturne dediščine pri oblikovanju gospodarskih politik in

c) bodo te politike spoštovale celovitost kulturne dediščine in ne bodo ogrožale njenih vrednot.

3. del – Skupna odgovornost za kulturno dediščino in udeležba javnosti

11. člen – Organizacija javne odgovornosti za kulturno dediščino

Pri upravljanju kulturne dediščine se pogodbenice zavezujejo, da:

a) spodbujajo celostno ravnanje javnih organov na vseh področjih in ravneh, ki temelji na poznavanju;

b) razvijajo pravno, finančno in strokovno okolje, ki bo omogočalo skupno ukrepanje javnih organov, strokovnjakov, lastnikov, investitorjev, podjetij, nevladnih organizacij in civilne družbe;

c) razvijajo inovativne načine, da bodo lahko javni organi sodelovali z drugimi dejavniki;

d) spoštujejo in spodbujajo pobude prostovoljcev, ki dopolnjujejo vlogo javnih organov;

e) spodbujajo nevladne organizacije, ki se ukvarjajo z ohranjanjem kulturne dediščine, da ravnajo v javno korist.

12. člen – Dostop do kulturne dediščine in demokratična udeležba

Pogodbenice se zavezujejo, da:

a) spodbujajo udeležbo vsakogar pri:

– identificiranju, proučevanju, interpretiranju, varstvu, ohranjanju in predstavljanju kulturne dediščine javnosti;

– javnem razmisleku in razpravi o priložnostih in izzivih, ki jih ponuja kulturna dediščina;

b) upoštevajo vrednote, ki jih vsaka dediščinska skupnost pripisuje kulturni dediščini, s katero se identificira;

c) priznavajo vlogo prostovoljnih organizacij kot partnerjev pri dejavnostih, pa tudi kot konstruktivnih kritikov dediščinskih politik;

d take steps to improve access to the heritage, especially among young people and the disadvantaged, in order to raise awareness about its value, the need to maintain and preserve it, and the benefits which may be derived from it.

Article 13 – Cultural heritage and knowledge

The Parties undertake to:

a facilitate the inclusion of the cultural heritage dimension at all levels of education, not necessarily as a subject of study in its own right, but as a fertile source for studies in other subjects;

b strengthen the link between cultural heritage education and vocational training;

c encourage interdisciplinary research on cultural heritage, heritage communities, the environment and their interrelationship;

d encourage continuous professional training and the exchange of knowledge and skills, both within and outside the educational system.

Article 14 – Cultural heritage and the information society

The Parties undertake to develop the use of digital technology to enhance access to cultural heritage and the benefits which derive from it, by:

a encouraging initiatives which promote the quality of contents and endeavour to secure diversity of languages and cultures in the information society;

b supporting internationally compatible standards for the study, conservation, enhancement and security of cultural heritage, whilst combating illicit trafficking in cultural property;

c seeking to resolve obstacles to access to information relating to cultural heritage, particularly for educational purposes, whilst protecting intellectual property rights;

d recognising that the creation of digital contents related to the heritage should not prejudice the conservation of the existing heritage.

Section IV – Monitoring and co-operation

Article 15 – Undertakings of the Parties

The Parties undertake to:

a develop, through the Council of Europe, a monitoring function covering legislations, policies and practices concerning cultural heritage, consistent with the principles established by this Convention;

b maintain, develop and contribute data to a shared information system, accessible to the public, which facilitates assessment of how each Party fulfils its commitments under this Convention.

Article 16 – Monitoring mechanism

a The Committee of Ministers, pursuant to Article 17 of the Statute of the Council of Europe, shall nominate an appropriate committee or specify an existing committee to monitor the application of the Convention, which will be authorised to make rules for the conduct of its business;

b The nominated committee shall:

– establish rules of procedure as necessary;

– manage the shared information system referred to in Article 15, maintaining an overview of the means by which each commitment under this Convention is met;

– at the request of one or more Parties, give an advisory opinion on any question relating to the interpretation of the Convention, taking into consideration all Council of Europe legal instruments;

d) sprejemajo ukrepe za izboljšanje dostopa do dediščine, zlasti med mladimi in ljudmi z manjšimi možnostmi, da bi okrepile zavedanje o njeni vrednosti, potrebi po njenem vzdrževanju in ohranjanju ter koristih, ki lahko izhajajo iz nje.

13. člen – Kulturna dediščina in znanje

Pogodbenice se zavezujejo, da:

a) olajšajo vključitev razsežnosti kulturne dediščine v vse ravni izobraževanja, ne nujno kot samostojen učni predmet, ampak kot ploden vir za učenje pri drugih predmetih;

b) krepijo povezavo med izobraževanjem o kulturni dediščini in poklicnim usposabljanjem;

c) spodbujajo interdisciplinarno raziskovanje kulturne dediščine, dediščinskih skupnosti, okolja in njihove medsebojne povezanosti;

d) spodbujajo stalno poklicno usposabljanje in izmenjavo znanja in veščin v izobraževalnem sistemu in zunaj njega.

14. člen – Kulturna dediščina in informacijska družba

Pogodbenice se zavezujejo, da razvijajo uporabo digitalne tehnologije za boljši dostop do kulturne dediščine in koristi, ki iz nje izhajajo, tako da:

a) spodbujajo pobude, ki uveljavljajo kakovost vsebine, ter si prizadevajo zaščititi raznovrstnost jezikov in kultur v informacijski družbi;

b) podpirajo mednarodno združljive standarde za proučevanje, ohranjanje, vrednotenje in varnost kulturne dediščine, tudi z bojem proti nedovoljeni trgovini s kulturnimi dobrinami;

c) poskušajo odpraviti ovire pri dostopu do informacij, povezanih s kulturno dediščino, zlasti v izobraževalne namene, tudi z varovanjem pravic intelektualne lastnine;

d) priznavajo, da ustvarjanje digitalnih vsebin, povezanih z dediščino, ne sme ogrožati ohranjanja obstoječe dediščine.

4. del – Spremljanje izvajanja in sodelovanje

15. člen – Obveznosti pogodbenic

Pogodbenice se zavezujejo, da:

a) prek Sveta Evrope razvijajo nalogo spremljanja zakonodaje, politik in praks glede kulturne dediščine v skladu z načeli te konvencije;

b) vzdržujejo, razvijajo in prispevajo podatke za skupen informacijski sistem, dostopen javnosti, ki bo omogočal ugotavljanje, kako vsaka pogodbenica izpolnjuje obveznosti iz te konvencije.

16. člen – Način spremljanja

a) Odbor ministrov v skladu s 17. členom Statuta Sveta Evrope imenuje ustrezen odbor ali obstoječemu odboru naloži, da spremlja izvajanje te konvencije, in ga pooblasti, da pripravi pravila za opravljanje svojega dela.

b) Imenovani odbor:

– sestavi potreben poslovnik;

– upravlja skupen informacijski sistem iz 15. člena, tako da vzdržuje pregled nad izpolnjevanjem obveznosti iz te konvencije;

– na prošnjo ene ali več pogodbenic da svetovalno mnenje o katerem koli vprašanju, povezanem z razlago konvencije, pri čemer upošteva vse pravne dokumente Sveta Evrope;

– on the initiative of one or more Parties, undertake an evaluation of any aspect of their implementation of the Convention;

– foster the trans-sectoral application of this Convention by collaborating with other committees and participating in other initiatives of the Council of Europe;

– report to the Committee of Ministers on its activities.

The committee may involve experts and observers in its work.

Article 17 – Co-operation in follow-up activities

The Parties undertake to co-operate with each other and through the Council of Europe in pursuing the aims and principles of this Convention, and especially in promoting recognition of the common heritage of Europe, by:

a putting in place collaborative strategies to address priorities identified through the monitoring process;

b fostering multilateral and transfrontier activities, and developing networks for regional co-operation in order to implement these strategies;

c exchanging, developing, codifying and assuring the dissemination of good practice;

d informing the public about the aims and implementation of this Convention.

Any Parties may, by mutual agreement, make financial arrangements to facilitate international co-operation.

Section V – Final clauses

Article 18 – Signature and entry into force

a This Convention shall be open for signature by the member States of the Council of Europe.

b It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

c This Convention 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 ten member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph.

d In respect of any signatory State which subsequently expresses its consent to be bound by it, this Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of ratification, acceptance or approval.

Article 19 – Accession

a After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any State not a member of the Council of Europe, and the European Community, to accede to the Convention by a decision 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.

b In respect of any acceding State, or the European Community in the event of its accession, this Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

– na pobudo ene ali več pogodbenic ovrednoti kateri koli vidik njihovega izvajanja konvencije;

– spodbuja medresorsko uporabo te konvencije, tako da sodeluje z drugimi odbori in se udeležuje drugih pobud Sveta Evrope;

– poroča Odboru ministrov o svojih dejavnostih.

Odbor lahko v svoje delo vključi strokovnjake in opazovalce.

17. člen – Sodelovanje pri nadaljnjih dejavnostih

Pogodbenice se zavezujejo, da sodelujejo med seboj in prek Sveta Evrope pri uresničevanju ciljev in načel te konvencije, zlasti pri spodbujanju priznavanja skupne evropske dediščine, tako da:

a) uvajajo skupne strategije za obravnavanje prednostnih nalog, določenih med postopkom spremljanja;

b) spodbujajo večstranske in čezmejne dejavnosti ter razvijajo mreže za regionalno sodelovanje za izvajanje teh strategij;

c) izmenjavajo, razvijajo, določajo pravila in zagotavljajo razširjanje dobre prakse;

d) obveščajo javnost o ciljih in izvajanju te konvencije.

Pogodbenice lahko z medsebojnim dogovorom sklenejo finančne sporazume za lažje mednarodno sodelovanje.

5. del – Končne določbe

18. člen – Podpis in začetek veljavnosti

a) Ta konvencija je na voljo za podpis državam članicam Sveta Evrope.

b) Konvencija se ratificira, sprejme ali odobri. Listine o ratifikaciji, sprejetju ali odobritvi se deponirajo pri generalnem sekretarju Sveta Evrope.

c) Konvencija začne veljati prvi dan meseca po poteku treh mesecev po dnevu, ko je deset držav članic Sveta Evrope izrazilo svoje soglasje, da jih konvencija zavezuje v skladu z določbami prejšnjega odstavka.

d) Za državo podpisnico, ki pozneje izrazi svoje soglasje, da jo konvencija zavezuje, pa začne veljati prvi dan meseca po poteku treh mesecev po dnevu, ko je bila deponirana listina o ratifikaciji, sprejetju ali odobritvi.

19. člen – Pristop

a) Po začetku veljavnosti te konvencije lahko Odbor ministrov Sveta Evrope povabi katero koli državo, ki ni članica Sveta Evrope, in Evropsko skupnost, da pristopita h konvenciji z večinskim sklepom, kot določa točka d 20. člena Statuta Sveta Evrope, in s soglasnim sklepom predstavnikov držav pogodbenic, ki imajo pravico zasedati v odboru.

b) Za države pristopnice ali Evropsko skupnost, če pristopi, začne konvencija veljati prvi dan meseca po poteku treh mesecev po dnevu deponiranja listine o pristopu pri generalnem sekretarju Sveta Evrope.

Article 20 –Territorial application

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

b Any State may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

c Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notification by the Secretary General.

20. člen – Območje uporabe

a) Vsaka država lahko ob podpisu te konvencije ali deponiranju listine o ratifikaciji, sprejetju, odobritvi ali pristopu določi območje ali območja, za katera se konvencija uporablja.

b) Vsaka država lahko kadar koli pozneje z izjavo, ki jo naslovi na generalnega sekretarja Sveta Evrope, razširi uporabo te konvencije na katero koli drugo območje, določeno v izjavi. Za to območje začne konvencija veljati prvi dan meseca po poteku treh mesecev po dnevu, ko generalni sekretar prejme tako izjavo.

c) Izjava na podlagi prejšnjih dveh odstavkov se lahko za katero koli območje, določeno v njej, umakne z uradnim obvestilom, naslovljenim na generalnega sekretarja. Umik začne veljati prvi dan meseca po poteku šest mesecev po dnevu, ko generalni sekretar prejme tako uradno obvestilo.

Article 21 – Denunciation

a Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

b Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

21. člen – Odpoved

a) Vsaka pogodbenica lahko kadar koli odpove to konvencijo z uradnim obvestilom, naslovljenim na generalnega sekretarja Sveta Evrope.

b) Ta odpoved začne veljati prvi dan meseca po poteku šestih mesecev po dnevu, ko generalni sekretar prejme tako uradno obvestilo.

Article 22 – Amendments

a Any Party, and the committee mentioned in Article 16, may propose amendments to this Convention.

b Any proposal for amendment shall be notified to the Secretary General of the Council of Europe, who shall communicate it to the member States of the Council of Europe, to the other Parties, and to any non-member State and the European Community invited to accede to this Convention in accordance with the provisions of Article 19.

c The committee shall examine any amendment proposed and submit the text adopted by a majority of three-quarters of the Parties' representatives to the Committee of Ministers for adoption. Following its adoption by the Committee of Ministers by the majority provided for in Article 20.d of the Statute of the Council of Europe, and by the unanimous vote of the States Parties entitled to hold seats in the Committee of Ministers, the text shall be forwarded to the Parties for acceptance.

d Any amendment shall enter into force in respect of the Parties which have accepted it, on the first day of the month following the expiry of a period of three months after the date on which ten member States of the Council of Europe have informed the Secretary General of their acceptance. In respect of any Party which subsequently accepts it, such amendment shall enter into force on the first day of the month following the expiry of a period of three months after the date on which the said Party has informed the Secretary General of its acceptance.

22. člen – Spremembe

a) Vsaka pogodbenica in odbor iz 16. člena lahko predlagata spremembe te konvencije.

b) Vsak predlog spremembe se uradno sporoči generalnemu sekretarju Sveta Evrope, ki to sporoči državam članicam Sveta Evrope, drugim pogodbenicam ter državam nečlanicam in Evropski skupnosti, ki so bile povabljene, da pristopijo k tej konvenciji v skladu z 19. členom.

c) Odbor prouči vsako predlagano spremembo in besedilo, ki ga sprejme tričetrtinska večina predstavnikov pogodbenic, predloži Odboru ministrov v sprejetje. Ko ga Odbor ministrov sprejme z večino, določeno v točki d 20. člena Statuta Sveta Evrope, in ga s soglasnim sklepom sprejmejo države pogodbenice, ki imajo pravico zasedati v Odboru ministrov, se pošlje pogodbenicam v sprejetje.

d) Vsaka sprememba začne za pogodbenice, ki so jo sprejele, veljati prvi dan meseca po poteku treh mesecev po dnevu, ko je deset držav članic Sveta Evrope obvestilo generalnega sekretarja, da so jo sprejele. Za pogodbenice, ki sprejmejo spremembo pozneje, začnejo veljati prvi dan meseca po poteku treh mesecev po dnevu, ko so o svojem sprejetju obvestile generalnega sekretarja.

Article 23 – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, any State which has acceded or been invited to accede to this Convention, and the European Community having acceded or been invited to accede, of:

a any signature;

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

23. člen – Uradna obvestila

Generalni sekretar Sveta Evrope uradno obvesti države članice Sveta Evrope, vse države, ki so pristopile k tej konvenciji ali so bile povabljene, da to storijo, in Evropsko skupnost, če je pristopila ali bila povabljena, da to stori, o:

a) vsakem podpisu;

b) deponiranju listine o ratifikaciji, sprejetju, odobritvi ali pristopu;

c any date of entry into force of this Convention in accordance with the provisions of Articles 18, 19 and 20;

d any amendment proposed to this Convention in accordance with the provisions of Article 22, as well as its date of entry into force;

e any other act, declaration, notification or communication relating to this Convention.

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

Done at Faro, this 27th day of October 2005, 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 member State of the Council of Europe and to any State or the European Community invited to accede to it.

c) vsakem datumu začetka veljavnosti te konvencije v skladu z 18., 19. in 20. členom;

d) vsaki predlagani spremembi te konvencije v skladu z 22. členom in o datumu začetka veljavnosti;

e) vsakem drugem aktu, izjavi, uradnem obvestilu ali sporočilu v zvezi s to konvencijo.

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

Sestavljeno v Faru 27. oktobra 2005 v angleškem in francoskem jeziku, pri čemer sta besedili enako verodostojni, v enem izvodu, ki je shranjen v arhivu Sveta Evrope. Generalni sekretar Sveta Evrope pošlje overjene kopije vsem članicam Sveta Evrope in vsem državam ali Evropski skupnosti, povabljenim k pristopu.

3. člen

Za izvajanje konvencije je pristojno Ministrstvo za kulturo.

4. člen

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

Št. 612-04/07-12/1
Ljubljana, dne 6. februarja 2008
EPA 515-IV

Predsednik
Državnega zbora
Republike Slovenije
France Cukjati, dr. med., l.r.

27. **Zakon o ratifikaciji Protokola o privilegijih in imunitetah Mednarodne oblasti za morsko dno (MPPIMO)**

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 o privilegijih in imunitetah Mednarodne oblasti za morsko dno (MPPIMO)

Razglašam Zakon o ratifikaciji Protokola o privilegijih in imunitetah Mednarodne oblasti za morsko dno (MPPIMO), ki ga je sprejel Državni zbor Republike Slovenije na seji 6. februarja 2008.

Št. 003-02-2/2008-18
Ljubljana, dne 14. februarja 2008

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N
O RATIFIKACIJI PROTOKOLA O PRIVILEGIJIH IN IMUNITETAH MEDNARODNE OBLASTI ZA MORSKO DNO (MPPIMO)

1. člen

Ratificira se Protokol o privilegijih in imunitetah Mednarodne oblasti za morsko dno, sprejet 27. marca 1998 v Kingstonu.

2. člen

Besedilo sporazuma se v izvirniku v angleškem jeziku in v prevodu v slovenski jezik glasi:

P R O T O C O L
ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL SEABED AUTHORITY

The States Parties to this Protocol,

Considering that the United Nations Convention on the Law of the Sea establishes the International Seabed Authority,

Recalling that article 176 of the United Nations Convention on the Law of the Sea provides that the Authority shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes,

Noting that article 177 of the United Nations Convention on the Law of the Sea provides that the Authority shall enjoy in the territory of each State Party to the Convention the privileges and immunities set forth in section 4, subsection G of Part XI of the Convention and that the privileges and immunities of the Enterprise shall be those set forth in annex IV, article 13,

Recognizing that certain additional privileges and immunities are necessary for the exercise of the functions of the International Seabed Authority,

Have agreed as follows:

Article 1

Use of terms

For the purposes of this Protocol:

(a) "Authority" means the International Seabed Authority;

(b) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;

(c) "Agreement" means the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982. In accordance with the Agreement, its provisions and Part XI of the Convention are to be interpreted and applied together as a single instrument; this Protocol and references in this Protocol to the Convention are to be interpreted and applied accordingly;

P R O T O K O L
O PRIVILEGIJIH IN IMUNITETAH MEDNARODNE OBLASTI ZA MORSKO DNO

Države pogodbenice tega protokola so se

ob upoštevanju, da Konvencija Združenih narodov o pomorskem mednarodnem pravu ustanavlja Mednarodno oblast za morsko dno,

ob upoštevanju, da 176. člen Konvencije Združenih narodov o pomorskem mednarodnem pravu določa, da je oblast mednarodna pravna oseba in ima pravno sposobnost za opravljanje svojih nalog in uresničevanje svojih ciljev,

ob ugotovitvi, da 177. člen Konvencije Združenih narodov o pomorskem mednarodnem pravu določa, da oblast na ozemlju vsake države pogodbenice konvencije uživa privilegije in imunitete iz podpoglavja G 4. poglavja XI. dela konvencije in da so privilegiji in imunitete podjetja določeni v 13. členu priloge IV,

ob zavedanju, da so potrebni dodatni privilegiji in imunitete za opravljanje nalog Mednarodne oblasti za morsko dno,

dogovorile:

1. člen

Pomen izrazov

V tem protokolu:

(a) je "oblast" Mednarodna oblast za morsko dno;

(b) "konvencija" je Konvencija Združenih narodov o pomorskem mednarodnem pravu z dne 10. decembra 1982;

(c) "sporazum" je sporazum, ki se nanaša na izvajanje XI. dela Konvencije Združenih narodov o pomorskem mednarodnem pravu z dne 10. decembra 1982. Skladno s sporazumom se njegove določbe in XI. del konvencije razlagajo in uporabljajo skupaj kot ena listina; ta protokol in sklicevanje na konvencijo v njem je treba razlagati in uporabljati v skladu s tem;

(d) "Enterprise" means the organ of the Authority as provided for in the Convention;

(e) "member of the Authority" means:

(i) any State Party to the Convention; and

(ii) any State or entity which is a member of the Authority on a provisional basis pursuant to paragraph 12 (a) of section 1 of the annex to the Agreement;

(f) "representatives" means representatives, alternate representatives, advisers, technical experts and secretaries of the delegations;

(g) "Secretary-General" means the Secretary-General of the International Seabed Authority.

Article 2

General provision

Without prejudice to the legal status, privileges and immunities accorded to the Authority and the Enterprise set forth in section 4, subsection G, of Part XI and Annex IV, article 13, of the Convention respectively, each State party to this Protocol shall accord to the Authority and its organs, the representatives of members of the Authority, officials of the Authority and experts on mission for the Authority such privileges and immunities as are specified in this Protocol.

Article 3

Legal personality of the Authority

1. The Authority shall possess legal personality. It shall have the legal capacity:

(a) to contract;

(b) to acquire and dispose of immovable and movable property;

(c) to be a party in legal proceedings.

Article 4

Inviolability of the premises of the Authority

The premises of the Authority shall be inviolable.

Article 5

Financial facilities of the Authority

1. Without being restricted by financial controls, regulations or moratoriums of any kind, the Authority may freely:

(a) purchase any currencies through authorized channels and hold and dispose of them;

(b) hold funds, securities, gold, precious metals or currency of any kind and operate accounts in any currency;

(c) transfer its funds, securities, gold or currency from one country to another or within any country and convert any currency held by it into any other currency.

2. The Authority shall, in exercising its rights under paragraph 1 of this article, pay due regard to any representations made by the Government of any member of the Authority insofar as it is considered that effect can be given to such representations without detriment to the interests of the Authority.

Article 6

Flag and emblem

The Authority shall be entitled to display its flag and emblem at its premises and on vehicles used for official purposes.

Article 7

Representatives of members of the Authority

1. Representatives of members of the Authority attending meetings convened by the Authority shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

(d) "podjetje" je organ oblasti, kakor je predvideno v konvenciji;

(e) "članica oblasti" je:

(i) država pogodbenica konvencije in

(ii) država ali pravna oseba, ki je začasna članica oblasti na podlagi točke a dvanajstega odstavka 1. poglavja aneksa k sporazumu;

(f) "predstavniki" so predstavniki, namestniki, svetovalci, tehnični strokovnjaki in sekretarji delegacij;

(g) "generalni sekretar" je generalni sekretar Mednarodne oblasti za morsko dno.

2. člen

Splošna določba

Ne glede na pravni status, privilegije in imunitete, priznani oblasti ali podjetju ter določene v podpoglavju G 4. poglavja XI. dela in 13. členu priloge IV h konvenciji, država pogodbenica tega protokola priznava oblasti in njenim organom, predstavnikom članic oblasti, uradnikom oblasti in strokovnjakom, ki opravljajo uradno nalogo za oblast, privilegije in imunitete, kakor so opredeljeni v tem protokolu.

3. člen

Pravna oseba oblasti

1. Oblast je pravna oseba. Ima pravno sposobnost:

(a) da sklepa pogodbe,

(b) da pridobiva in odsvoji nepremično in premično premoženje,

(c) da je stranka v sodnih postopkih.

4. člen

Nedotakljivost prostorov oblasti

Prostori oblasti so nedotakljivi.

5. člen

Finančne možnosti oblasti

1. Oblast lahko prosto, ne da bi jo omejevali finančni nadzor, predpisi ali moratoriji:

(a) po dovoljenih poteh kupi vsako valuto, jo poseduje in odsvoji;

(b) poseduje sredstva, vrednostne papirje, zlato, dragocene kovine ali valuto vseh vrst in vodi račune v vsaki valuti;

(c) prenaša svoja sredstva, vrednostne papirje, zlato ali tujo valuto iz ene države v drugo ali znotraj države in pretvori vsako valuto, ki jo poseduje, v katero koli drugo valuto.

2. Pri uresničevanju svojih pravic iz prvega odstavka oblast ustrezno upošteva morebitne pripombe, ki jih ima vlada članice oblasti, če se šteje, da je take pripombe mogoče uveljaviti, ne da bi škodovali interesom oblasti.

6. člen

Zastava in grb

Oblast ima pravico svoje prostore in vozila, ki jih uporablja za službene namene, označiti s svojo zastavo in grbom.

7. člen

Predstavniki članic oblasti

1. Predstavniki članic oblasti, navzoči na sejah, ki jih sklicuje oblast, pri opravljanju svojih nalog in med potovanjem do kraja sestanka in nazaj uživajo te privilegije in imunitete:

(a) immunity from legal process in respect of words spoken or written, and all acts performed by them in the exercise of their functions, except to the extent that the member which they represent expressly waives this immunity in a particular case;

(b) immunity from personal arrest or detention and the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys;

(c) inviolability for all papers and documents;

(d) the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) exemption in respect of themselves and their spouses from immigration restrictions, alien registration or national service obligations in the State they are visiting or through which they are passing in the exercise of their functions;

(f) the same facilities as regards exchange restrictions as are accorded to representatives of foreign Governments of comparable rank on temporary official missions.

2. In order to secure, for the representatives of members of the Authority, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of all acts done by them in discharging their functions shall continue to be accorded, notwithstanding that the persons concerned are no longer representatives of members of the Authority.

3. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of members of the Authority attending the meetings of the Authority are present in the territory of a member of the Authority for the discharge of their duties shall not be considered as periods of residence.

4. Privileges and immunities are accorded to the representatives of members of the Authority, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Authority. Consequently, a member of the Authority has the right and the duty to waive the immunity of its representative in any case where in the opinion of the member of the Authority the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

5. Representatives of members of the Authority shall have insurance coverage against third-party risks in respect of vehicles owned or operated by them, as required by the laws and regulations of the State in which the vehicle is operated.

6. The provisions of paragraphs 1, 2 and 3 are not applicable as between a representative and the authorities of the member of the Authority of which he is a national or of which he or she is or has been a representative.

Article 8

Officials

1. The Secretary-General will specify the categories of officials to which the provisions of paragraph 2 of this article shall apply. The Secretary-General shall submit these categories to the Assembly. Thereafter these categories shall be communicated to the Governments of all members of the Authority. The names of the officials included in these categories shall from time to time be made known to the Governments of members of the Authority.

2. Officials of the Authority, regardless of nationality, shall:

(a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) be immune from personal arrest or detention in relation to acts performed by them in their official capacity;

(c) be exempt from tax in respect of salaries and emoluments paid or any other form of payment made by the Authority;

(a) imuniteto pred sodnimi postopki v zvezi z izgovorjenimi ali zapisanimi besedami in za vsa dejanja, storjena pri opravljanju njihovih nalog, razen če jim članica, ki jo predstavljajo, izrecno ne odvzame imunitete v posameznem primeru;

(b) imuniteto pred odvzemom osebne prostosti ali pridržanjem ter enake imunitete in olajšave v zvezi z osebno prtljago, kakor se priznavajo diplomatskim predstavnikom;

(c) nedotakljivost vseh listin in dokumentov;

(d) pravico, da uporabljajo šifre in prejemajo listine in pisma po kurirju ali v zapečatenih vrečah;

(e) izvzetje njih in njihovih zakoncev iz omejitev priseljevanja, vpisa tujcev in vojaških obveznosti v državi, v kateri so na obisku, ali čez katero potujejo pri opravljanju svojih nalog;

(f) enake olajšave pri omejitvah pri menjavi deviz, kakor se priznavajo predstavnikom tujih vlad primerljivega položaja na začasnih uradnih nalogah.

2. Da bi predstavnikom članic oblasti zagotovili popolno svobodo govora in neodvisnost pri opravljanju njihovih nalog, uživajo imuniteto pred sodnim postopkom za dejanja, storjena pri opravljanju njihovih nalog tudi potem, ko niso več predstavniki članic oblasti.

3. Kadar je vrsta obdavčitve odvisna od prebivališča, se obdobja, ko se predstavniki članic oblasti udeležujejo sestankov oblasti in so navzoči na njenem ozemlju zaradi opravljanja svojih dolžnosti, ne štejejo za obdobja prebivanja v tej državi.

4. Predstavnikom članic oblasti se privilegiji in imunitete ne priznavajo zaradi njihove osebne koristi, temveč zato, da se zagotovi neodvisno opravljanje njihovih nalog v zvezi z oblastjo. Zato ima članica oblasti pravico in dolžnost, da odvzame imuniteto svojemu predstavniku v vsakem primeru, ko bi imuniteta po njenem mnenju ovirala uresničevanje načela pravičnosti, odvzame pa jo lahko brez vpliva na namen, zaradi katerega mu je bila priznana.

5. Predstavniki članic oblasti morajo imeti zavarovalno kritje proti tveganjem tretje strani za vozilo, ki ga imajo v svoji lasti ali ga upravljajo, kakor to zahtevajo zakoni in drugi predpisi države, v kateri vozilo uporabljajo.

6. Prvi, drugi in tretji odstavek se ne uporabljajo v odnosih med predstavniki in organi članice oblasti, katere državljani so ali katere predstavniki so ali so bili.

8. člen

Uradniki

1. Generalni sekretar določi razrede uradnikov, za katere se uporablja drugi odstavek tega člena. Predloži jih skupščini. Z njimi seznani vlade vseh članic oblasti. Občasno jih seznani z imeni uradnikov, vključenih v navedene razrede.

2. Ne glede na državljanstvo uradniki oblasti:

(a) uživajo imuniteto pred sodnimi postopki v zvezi z izgovorjenimi ali zapisanimi besedami in za vsa dejanja, storjena pri opravljanju uradnih dolžnosti;

(b) uživajo imuniteto pred odvzemom osebne prostosti ali pridržanjem v zvezi z dejanji, storjenimi pri opravljanju uradnih dolžnosti;

(c) so oproščeni davkov od plač in prejemkov ali vseh drugih vrst plačil, ki jih izplačuje oblast;

(d) be immune from national service obligations provided that, in relation to States of which they are national, such immunity shall be confined to officials of the Authority whose names have, by reason of their duties, been placed upon a list compiled by the Secretary-General and approved by the State concerned; should other officials of the Authority be called up for national service, the State concerned shall, at the request of the Secretary-General, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption in the continuation of essential work;

(e) be exempt, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;

(f) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Governments concerned;

(g) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question;

(h) be exempt from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the Party concerned; and inspection in such a case shall be conducted in the presence of the official concerned, and in the case of official baggage, in the presence of the Secretary-General or his or her authorized representative;

(i) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as are accorded to diplomatic agents.

3. In addition to the privileges and immunities specified in paragraph 2, the Secretary-General or any official acting on his behalf during his absence from duty and the Director-General of the Enterprise shall be accorded in respect of themselves, their spouses and minor children the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

4. Privileges and immunities are accorded to officials, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Authority. The Secretary-General has the right and the duty to waive the immunity of any official where, in the opinion of the Secretary-General, the immunity would impede the course of justice, and it can be waived without prejudice to the interests of the Authority. In case of the Secretary-General, the Assembly shall have the right to waive immunity.

5. The Authority shall cooperate at all times with the appropriate authorities of members of the Authority to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities referred to in this article.

6. Pursuant to the laws and regulations of the State concerned, the officials of the Authority shall be required to have insurance coverage against third-party risks in respect of vehicles owned or operated by them.

Article 9

Experts on mission for the Authority

1. Experts (other than officials coming within the scope of article 8) performing missions for the Authority shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(d) uživajo imuniteto za obveznosti služenja vojaškega roka, če je predvideno, da je v državi, katere državljani so, taka imuniteta omejena na uradnike oblasti, imena katerih je generalni sekretar zaradi njihovih nalog uvrstil na seznam, država pa je seznam odobrila; če bi bili drugi uradniki oblasti vpoklicani zaradi služenja vojaške obveznosti, država na zahtevo generalnega sekretarja po potrebi odobri ustrezen časovni odlog pri vpoklicu navedenih uradnikov, da se prepreči prekinitev pomembnega dela;

(e) zanje ter za njihove zakonce in vzdrževane družinske člane ne veljajo omejitve glede priseljevanja in formalnosti pri vpisu tujcev;

(f) uživajo enake privilegije pri menjavi deviz, kakor se običajno priznavajo uradnikom primerljivega položaja v diplomatskih predstavniških pri vladah;

(g) imajo pravico, da brez dajatev uvozijo pohištvo in druge predmete za osebno uporabo, ko prvič prevzamejo dolžnost v državi;

(h) pregled osebne prtljage zanje ne velja, razen če obstajajo resni razlogi za domnevo, da so v prtljagi izdelki, ki niso za osebno uporabo, ali izdelki, katerih izvoz ali uvoz je po zakonu prepovedan, ali zanje velja nadzor po predpisih o karanteni v tisti pogodbenici; v takem primeru pregled poteka v navzočnosti uradnika, pri uradni pošiljki pa v navzočnosti generalnega sekretarja ali njegovega pooblaščenega predstavnika;

(i) zanje ter za njihove zakonce in vzdrževane družinske člane pri vrnitvi v domovino ob mednarodnih krizah veljajo enake olajšave kakor za diplomatske predstavnike.

3. V skladu z mednarodno zakonodajo poleg privilegijev in imunitet iz drugega odstavka generalni sekretar ali uradnik, ki ga nadomešča, kadar je odsoten, ter generalni direktor podjetja, njihovi zakonci in mladoletni otroci uživajo enake privilegije in imunitete, izvzetje ter olajšave kakor diplomatski predstavniki.

4. Privilegiji in imunitete se uradnikom ne priznavajo zaradi njihove osebne koristi, temveč zato, da se zagotovi neodvisno opravljanje njihovih nalog v zvezi z oblastjo. Generalni sekretar ima pravico in dolžnost odvzeti imuniteto vsakemu uradniku, kadar bi po njegovem mnenju ovirala uresničevanje načela pravičnosti, ter jo lahko odvzame brez poseganja v interese oblasti. Skupščina ima pravico odvzeti imuniteto generalnemu sekretarju.

5. Oblast ves čas sodeluje z ustreznimi organi članic oblasti, s čimer olajša ustrezno delovanje pravosodja, zagotovi upoštevanje policijskih predpisov in prepreči zlorabe v zvezi s privilegiji, imunitetami in olajšavami iz tega člena.

6. Skladno z zakoni in drugimi predpisi države se od uradnikov zahteva, da imajo zavarovano odgovornost proti tretji osebi za vozilo v njihovi lasti ali ki ga upravljajo.

9. člen

Strokovnjaki, ki opravljajo uradne naloge za oblast

1. Strokovnjakom (ki niso uradniki iz 8. člena), ki opravljajo uradne naloge za oblast, se po potrebi priznajo privilegiji in imunitete za neodvisno opravljanje nalog, kadar opravljajo uradne naloge, vključno s časom, ki ga prebijejo na potovanjih v zvezi z uradnimi nalogami. Še zlasti se jim priznajo:

(a) imuniteta pred odvzemom osebne prostosti ali pridržanjem in pred zasegom osebne prtljage;

(b) in respect of words spoken or written and acts done by them in the exercise of their functions, immunity from legal process of every kind. This immunity shall continue notwithstanding that the persons concerned are no longer employed on missions for the Authority;

(c) inviolability for all papers and documents;

(d) for the purposes of their communications with the Authority, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) exemption from tax in respect of salaries and emoluments paid or any other form of payment made by the Authority. This provision is not applicable as between an expert and the member of the Authority of which he or she is a national;

(f) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions.

2. Privileges and immunities are accorded to experts, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Authority. The Secretary-General shall have the right and the duty to waive the immunity of any expert where, in the opinion of the Secretary-General, the immunity would impede the course of justice, and it can be waived without prejudice to the interests of the Authority.

Article 10

Respect for laws and regulations

Without prejudice to their privileges and immunities, it is the duty of all persons referred to in articles 7, 8 and 9 to respect the laws and regulations of the member of the Authority in whose territory they may be on the business of the Authority or through whose territory they may pass on such business. They also have a duty not to interfere in the internal affairs of that member.

Article 11

Laissez-passer and visas

1. Without prejudice to the possibility for the Authority to issue its own travel documents, the States Parties to this Protocol shall recognize and accept the United Nations laissez-passer issued to officials of the Authority.

2. Applications for visas (where required) from officials of the Authority shall be dealt with as speedily as possible. Applications for visas (where required) from officials of the Authority holding United Nations laissez-passer shall be accompanied by a document confirming that they are travelling on the official business of the Authority.

Article 12

Relationship between the Headquarters Agreement and the Protocol

The provisions of this Protocol shall be complementary to the provisions of the Headquarters Agreement. Insofar as any provision of this Protocol relates to the same subject matter, the two provisions shall, wherever possible, be treated as complementary, so that both provisions shall be applicable and neither shall narrow the effect of the other; but in any case of conflict, the provisions of that Agreement shall prevail.

Article 13

Supplementary agreement

This Protocol shall in no way limit or prejudice the privileges and immunities which have been, or may hereafter be, accorded to the Authority by any member of the Authority by reason of the location in the territory of that member of the Authority's headquarters or regional centres or offices. This Protocol shall not be deemed to prevent the conclusion of supplementary agreements between the Authority and any member of the Authority.

(b) imuniteta pred sodnimi postopki vseh vrst v zvezi z izgovorjenimi ali zapisanimi besedami in za vsa dejanja, storjena pri opravljanju nalog. Ta imuniteta traja tudi potem, ko oseba ne opravlja več uradnih nalog za oblast;

(c) nedotakljivost vseh listin in dokumentov;

(d) pravica, da za stike z oblastjo uporabljajo šifre in prejemajo listine in pisma po kurirju ali v zapečatenih vrečah;

(e) oprostitev davkov od plač in prejemkov ali vseh drugih vrst plačil, ki jih izplačuje oblast. Ta določba se ne uporablja v odnosih med strokovnjakom in članico oblasti, katere državljan je;

(f) enake olajšave pri valutnih ali menjalnih omejitvah, kakor se priznavajo predstavnikom tujih vlad na začasnih uradnih nalogah.

2. Strokovnjakom oblasti se privilegiji in imunitete ne priznavajo zaradi njihove osebne koristi, temveč zato da se jim zagotovi neodvisno opravljanje nalog v zvezi z oblastjo. Generalni sekretar ima pravico in dolžnost odvzeti imuniteto vsakemu strokovnjaku, kadar bi po njegovem mnenju preprečevala uresničevanje načela pravičnosti, in to ne glede na interese oblasti.

10. člen

Spoštovanje zakonov in drugih predpisov

Ne glede na privilegije in imunitete je dolžnost vseh oseb iz 7., 8. in 9. člena, da spoštujejo zakone in druge predpise članic oblasti, na ozemlju katerih so lahko službeno ali čez ozemlja katerih lahko službeno potujejo. Njihova dolžnost je tudi, da se ne vmešavajo v notranje zadeve te članice.

11. člen

Prepustnice in vizumi

1. Ne glede na možnost, da oblast izda svoje lastne potne listine, države pogodbenice tega protokola priznavajo in sprejemajo prepustnice, ki jih uradnikom oblasti izdajo Združeni narodi.

2. Vloge za vizume (kadar se zahtevajo), ki jih vložijo uradniki oblasti, se obravnavajo čim hitreje. Uradniki oblasti, ki imajo prepustnice Združenih narodov, vlogam za vizume (kadar se zahtevajo) priložijo dokument, ki potrjuje, da so na uradnem službenem potovanju za oblast.

12. člen

Razmerje med Sporazumom o sedežu in tem protokolom

Ta protokol dopolnjuje Sporazum o sedežu. Če se določba protokola nanaša na enako vsebino, se po možnosti določbi obravnavata kot dodatni, tako da se uporabljata obe in nobena ne zmanjšuje učinka drugi; ob sporu pa so odločilne določbe sporazuma.

13. člen

Dodatni sporazum

Ta protokol na noben način ne omejuje privilegijev ali imunitet, ki jih je ali jih še bo katera koli članica oblasti priznala oblasti zaradi kraja, v katerem je sedež oblasti, ali regionalnih središč ali uradov na ozemlju te države, ali ne posega vanje. Šteje se, da ta protokol ne preprečuje sklenitve dodatnih sporazumov med oblastjo in katero koli njeno članico.

Article 14

Settlement of disputes

1. In connection with the implementation of the privileges and immunities granted under this Protocol, the Authority shall make suitable provision for the proper settlement of:

(a) disputes of a private law character to which the Authority is a party;

(b) disputes involving any official of the Authority or any expert on mission for the Authority who by reason of his or her official position enjoys immunity, if immunity has not been waived by the Secretary-General.

2. Any dispute between the Authority and a member of the Authority concerning the interpretation or application of this Protocol which is not settled by consultation, negotiation or other agreed mode of settlement within three months following a request by one of the parties to the dispute shall, at the request of either party, be referred for a final and binding decision to a panel of three arbitrators:

(a) one to be nominated by the Secretary-General, one to be nominated by the other party to the dispute and the third, who shall be Chairman of the panel, to be chosen by the first two arbitrators;

(b) if either party has failed to make its appointment of an arbitrator within two months of the appointment of an arbitrator by the other party, the President of the International Tribunal for the Law of the Sea shall proceed to make such appointment. Should the first two arbitrators fail to agree upon the appointment of the third arbitrator within three months following the appointment of the first two arbitrators, the third arbitrator shall be chosen by the President of the International Tribunal for the Law of the Sea upon the request of the Secretary-General or the other party to the dispute.

14. člen

Reševanje sporov

1. Oblast v zvezi z uresničevanjem privilegijev in imunitet, priznanih po tem protokolu predvidi ustrezno reševanje:

(a) zasebnopravnih sporov, pri katerih je oblast stranka;

(b) sporov, v katere je vpleten uradnik oblasti ali strokovnjak, ki opravlja uradno nalogo za oblast, ki zaradi svojega uradnega položaja uživa imuniteto, če mu je generalni sekretar ni odvzel.

2. Vsak spor med oblastjo in njeno članico zaradi razlage ali uporabe tega protokola, ki se ne reši s posvetovanjem, pogajanjem ali drugim dogovorjenim načinom reševanja v treh mesecih po predložitvi zahtevka ene stranke v sporu, se na zahtevo ene stranke predloži v dokončno in zavezujočo odločitev senata, ki ga sestavljajo trije razsodniki:

(a) enega imenuje generalni sekretar, drugega imenuje druga stranka v sporu in tretjega, ki je predsednik senata, izbereta prva dva razsodnika;

(b) če stranka v dveh mesecih od dne, ko je razsodnika imenovala druga stranka, razsodnika ne imenuje, ga imenuje predsednik Mednarodnega sodišča za pomorsko mednarodno pravo. Če se prva dva razsodnika v treh mesecih po svojem imenovanju ne dogovorita o tretjem, na zahtevo generalnega sekretarja ali druge stranke v sporu tretjega razsodnika izbere predsednik Mednarodnega sodišča za pomorsko mednarodno pravo.

Article 15

Signature

This Protocol shall be open for signature by all members of the Authority at the headquarters of the International Seabed Authority in Kingston, Jamaica, from 17 August until 28 August 1998 and subsequently until 16 August 2000 at United Nations Headquarters in New York.

15. člen

Podpis

Ta protokol je na voljo za podpis vsem članicam oblasti na sedežu Mednarodne oblasti za morsko dno v Kingstonu na Jamajki od 17. do 28. avgusta 1998, nato pa do 16. avgusta 2000 na sedežu Združenih narodov v New Yorku.

Article 16

Ratification

This Protocol is subject to ratification, approval or acceptance. The instruments of ratification, approval or acceptance shall be deposited with the Secretary-General of the United Nations.

16. člen

Ratifikacija

Ta protokol se ratificira, odobri ali sprejme. Listine o ratifikaciji, odobritvi ali sprejetju hrani generalni sekretar Združenih narodov.

Article 17

Accession

This Protocol shall remain open for accession by all members of the Authority. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

17. člen

Pristop

Ta protokol je na voljo za pristop vsem članicam oblasti. Listine o pristopu hrani generalni sekretar Združenih narodov.

Article 18

Entry into force

1. The Protocol shall enter into force 30 days after the date of deposit of the tenth instrument of ratification, approval, acceptance or accession.

2. For each member of the Authority which ratifies, approves or accepts this Protocol or accedes thereto after the deposit of the tenth instrument of ratification, approval, acceptance or accession, this Protocol shall enter into force on the thirtieth day following the deposit of its instrument of ratification, approval, acceptance or accession.

18. člen

Začetek veljavnosti

1. Protokol začne veljati trideseti dan po deponiranju desete listine o ratifikaciji, odobritvi, sprejetju ali pristopu.

2. Za vsako članico oblasti, ki ta protokol ratificira, odobri ali sprejme ali pristopi k njemu po deponiranju desete listine o ratifikaciji, odobritvi, sprejetju ali pristopu, začne ta protokol veljati trideseti dan po deponiranju listine o ratifikaciji, odobritvi, sprejetju ali pristopu.

Article 19

Provisional application

A State which intends to ratify, approve, accept or accede to this Protocol may at any time notify the depositary that it will apply this Protocol provisionally for a period not exceeding two years.

19. člen

Začasna uporaba

Država, ki namerava ratificirati, odobriti, sprejeti ta protokol ali pristopiti k njemu, lahko depozitarja kadar koli uradno obvesti o začasni uporabi protokola za obdobje, ki ne sme biti daljše od dveh let.

Article 20

Denunciation

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Protocol. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Protocol to which it would be subject under international law independently of this Protocol.

20. člen

Odpoved

1. Država pogodbenica lahko ta protokol odpove z uradnim pisnim obvestilom, naslovljenim na generalnega sekretarja Združenih narodov. Odpoved začne veljati eno leto po prejemu uradnega obvestila, če ni v njem naveden poznejši datum.

2. Odpoved ne sme vplivati na dolžnost države pogodbenice, da izpolni vse obveznosti iz tega protokola, ki bi zanjo veljale po mednarodnem pravu, neodvisno od tega protokola.

Article 21

Depositary

The Secretary-General of the United Nations shall be the depositary of this Protocol.

21. člen

Depozitar

Depozitar tega protokola je generalni sekretar Združenih narodov.

Article 22

Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Protocol are equally authentic.

22. člen

Verodostojna besedila

Besedila tega protokola v angleškem, arabskem, francoskem, kitajskem, ruskem in španskem jeziku so enako verodostojna.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed the Protocol.

V POTRDITEV NAVEDENEGA so podpisani, ki so bili za to pravilno pooblaščeni, podpisali ta protokol.

OPENED FOR SIGNATURE at Kingston, from the seventeenth to the twenty-eighth day of August one thousand nine hundred and ninety-eight, in a single original, in the Arabic, Chinese, English, French, Russian and Spanish languages.

Protokol je NA VOLJO ZA PODPIS v Kingstonu od sedemnajstega do osemindvajsetega avgusta tisoč devetsto osemindevetdeset v enem izvirniku v angleškem, arabskem, francoskem, kitajskem, ruskem in španskem jeziku.

3. člen

Za izvajanje sporazuma skrbi Ministrstvo za gospodarstvo.

4. člen

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

Št. 700-01/07-95/1
Ljubljana, dne 6. februarja 2008
EPA 1825-IV

Predsednik
Državnega zbora
Republike Slovenije
France Cukjati, dr. med., l.r.

28. **Zakon o ratifikaciji Konvencije Združenih narodov proti korupciji (MKZNPK)**

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 korupciji (MKZNPK)

Razglašam Zakon o ratifikaciji Konvencije Združenih narodov proti korupciji (MKZNPK), ki ga je sprejel Državni zbor Republike Slovenije na seji 6. februarja 2008.

Št. 003-02-2/2008-20
Ljubljana, dne 14. februarja 2008

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N
O RATIFIKACIJI KONVENCIJE ZDRUŽENIH NARODOV PROTI KORUPCIJI (MKZNPK)

1. člen

Ratificira se Konvencija Združenih narodov proti korupciji, sprejeta na 58. plenarnem zasedanju Generalne skupščine Združenih narodov 31. oktobra 2003.

2. člen

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

UNITED NATIONS CONVENTION AGAINST CORRUPTION

PREAMBLE

The States Parties to this Convention,

Concerned about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law,

Concerned also about the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering,

Concerned further about cases of corruption that involve vast quantities of assets, which may constitute a substantial proportion of the resources of States, and that threaten the political stability and sustainable development of those States,

Convinced that corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential,

Convinced also that a comprehensive and multidisciplinary approach is required to prevent and combat corruption effectively,

Convinced further that the availability of technical assistance can play an important role in enhancing the ability of States, including by strengthening capacity and by institution-building, to prevent and combat corruption effectively,

Convinced that the illicit acquisition of personal wealth can be particularly damaging to democratic institutions, national economies and the rule of law,

Determined to prevent, detect and deter in a more effective manner international transfers of illicitly acquired assets and to strengthen international cooperation in asset recovery,

KONVENCIJA ZDRUŽENIH NARODOV PROTI KORUPCIJI

PREAMBULA

Države pogodbenice te konvencije so se,

zaskrbljene zaradi resnosti težav in nevarnosti, ki jih prinaša korupcija za stabilnost in varnost družb zaradi spodkopavanja institucij in vrednot demokracije, etičnih načel in pravičnosti ter ogrožanja trajnostnega razvoja in vladavine prava,

zaskrbljene tudi zaradi povezav med korupcijo in drugimi oblikami kriminala, zlasti organiziranega in gospodarskega, vključno s pranjem denarja,

zaskrbljene zaradi primerov korupcije, ki vključujejo zelo veliko sredstev, ki lahko pomenijo precejšen delež virov držav, in ogrožajo njihovo politično stabilnost in trajnosten razvoj,

prepričane, da korupcija ni več lokalno vprašanje, temveč mednaroden pojav, ki vpliva na vse družbe in gospodarstva, zaradi česar je nujno potrebno mednarodno sodelovanje za njeno preprečevanje in nadzor,

prepričane tudi, da je za učinkovito preprečevanje korupcije in boj proti njej potreben vsestranski in interdisciplinaren pristop,

prepričane, da lahko razpoložljivost strokovne pomoči igra pomembno vlogo pri izboljšanju sposobnosti držav za učinkovito preprečevanje korupcije in boj proti njej, vključno s krepitvijo zmogljivosti in razvojem institucij,

prepričane, da lahko nezakonito pridobivanje osebnega bogastva škodi zlasti demokratičnim institucijam, nacionalnim gospodarstvom in vladavini prava,

odločne, da bodo učinkoviteje preprečile, odkrile in zatrle mednarodne prenose nezakonito pridobljenih sredstev in okrepile mednarodno sodelovanje pri vračanju premoženja,

Acknowledging the fundamental principles of due process of law in criminal proceedings and in civil or administrative proceedings to adjudicate property rights,

Bearing in mind that the prevention and eradication of corruption is a responsibility of all States and that they must cooperate with one another, with the support and involvement of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, if their efforts in this area are to be effective,

Bearing also in mind the principles of proper management of public affairs and public property, fairness, responsibility and equality before the law and the need to safeguard integrity and to foster a culture of rejection of corruption,

Commending the work of the Commission on Crime Prevention and Criminal Justice and the United Nations Office on Drugs and Crime in preventing and combating corruption,

Recalling the work carried out by other international and regional organizations in this field, including the activities of the African Union, the Council of Europe, the Customs Cooperation Council (also known as the World Customs Organization), the European Union, the League of Arab States, the Organisation for Economic Cooperation and Development and the Organization of American States,

Taking note with appreciation of multilateral instruments to prevent and combat corruption, including, inter alia, the Inter-American Convention against Corruption, adopted by the Organization of American States on 29 March 1996, the Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union, adopted by the Council of the European Union on 26 May 1997, the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted by the Organisation for Economic Cooperation and Development on 21 November 1997, the Criminal Law Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 27 January 1999, the Civil Law Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 4 November 1999, and the African Union Convention on Preventing and Combating Corruption, adopted by the Heads of State and Government of the African Union on 12 July 2003,

Welcoming the entry into force on 29 September 2003 of the United Nations Convention against Transnational Organized Crime,

Have agreed as follows:

priznavajoč temeljna načela kazenskih in civilnih ali upravnih postopkov za sodno odločanje o premoženjskih pravicah,

ob upoštevanju, da sta preprečevanje in odprava korupcije odgovornost vseh držav in da morajo med seboj sodelovati, pri čemer sta potrebni podpora in vključitev posameznikov in skupin zunaj javnega sektorja, kot so civilna družba, nevladne organizacije in skupnosti, če naj bi bila njihova prizadevanja na tem področju uspešna,

ob upoštevanju načel ustreznega vodenja javnih zadev in upravljanja javnega premoženja, poštenosti, odgovornosti in enakosti pred zakonom ter potrebe po varovanju integritete in spodbujanju kulture zavračanja korupcije,

zadovoljne z delom Komisije za preprečevanje kriminalitete in kazensko pravosodje ter Urada Združenih narodov za droge in kriminal pri preprečevanju korupcije in boju proti njej,

ob upoštevanju dela, ki so ga na tem področju opravile druge mednarodne in regionalne organizacije, vključno z dejavnostmi Afriške unije, Sveta Evrope, Sveta za carinsko sodelovanje (znanega tudi kot Svetovna carinska organizacija), Evropske unije, Lige arabskih držav, Organizacije za gospodarsko sodelovanje in razvoj in Organizacije ameriških držav,

zadovoljne z večstranskimi dokumenti za preprečevanje korupcije in boj proti njej, med drugim Medameriško konvencijo proti korupciji, ki jo je sprejela Organizacija ameriških držav 29. marca 1996, Konvencijo o boju proti korupciji uradnikov Evropskih skupnosti ali uradnikov držav članic Evropske unije, ki jo je sprejel Svet Evropske unije 26. maja 1997, Konvencijo o boju proti podkupovanju tujih javnih uslužbencev v mednarodnem poslovanju, ki jo je sprejela Organizacija za gospodarsko sodelovanje in razvoj 21. novembra 1997, Kazenskopravno konvencijo o korupciji, ki jo je sprejel Odbor ministrov Sveta Evrope 27. januarja 1999, Civilnopravno konvencijo o korupciji, ki jo je sprejel Odbor ministrov Sveta Evrope 4. novembra 1999, in Konvencijo Afriške unije o preprečevanju korupcije in boju proti njej, ki so jo sprejeli voditelji držav in vlad Afriške unije 12. julija 2003,

pozdravljajoč začetek veljavnosti Konvencije Združenih narodov proti mednarodnemu organiziranemu kriminalu 29. septembra 2003,

dogovorile naslednje:

Chapter I
General provisions

Article 1

Statement of purpose

The purposes of this Convention are:

(a) To promote and strengthen measures to prevent and combat corruption more efficiently and effectively;

(b) To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery;

(c) To promote integrity, accountability and proper management of public affairs and public property.

Article 2

Use of terms

For the purposes of this Convention:

(a) “Public official” shall mean: (i) any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person’s seniority; (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a

I. poglavje
Splošne določbe

1. člen

Namen

Namen te konvencije je:

(a) spodbujati in krepiti ukrepe za učinkovitejše in uspešnejše preprečevanje korupcije in boj proti njej;

(b) spodbujati, olajšati in podpirati mednarodno sodelovanje in strokovno pomoč pri preprečevanju korupcije in boju proti njej, vključno z vračanjem premoženja;

(c) spodbujati integriteto, odgovornost in ustrezno vodenje javnih zadev ter upravljanje javnega premoženja.

2. člen

Pomen izrazov

V tej konvenciji:

(a) "javni uslužbenec" pomeni (i) osebo s trajnim ali začasnim zakonodajnim, izvršilnim, upravnim ali sodnim mandatom v državi pogodbenici, ne glede na to, ali je imenovana ali izvoljena, plačana ali ne in ne glede na njen položaj v hierarhiji; (ii) drugo osebo, ki dela v javnem sektorju, vključno z javno agencijo ali javnim podjetjem, ali opravlja javne storitve, kot je

public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party; (iii) any other person defined as a “public official” in the domestic law of a State Party. However, for the purpose of some specific measures contained in chapter II of this Convention, “public official” may mean any person who performs a public function or provides a public service as defined in the domestic law of the State party and as applied in the pertinent area of law of that State Party;

(b) “Foreign public official” shall mean any person holding a legislative, executive, administrative or judicial office of a foreign country, whether appointed or elected; and any person exercising a public function for a foreign country, including for a public agency or public enterprise;

(c) “Official of a public international organization” shall mean an international civil servant or any person who is authorized by such an organization to act on behalf of that organization;

(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 23 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.

Article 3

Scope of application

1. This Convention shall apply**,** in accordance with its terms, to the prevention, investigation and prosecution of corruption and to the freezing, seizure, confiscation and return of the proceeds of offences established in accordance with this Convention.

2. For the purposes of implementing this Convention, it shall not be necessary**,** except as otherwise stated herein, for the offences set forth in it to result in damage or harm to state property.

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 shall entitle 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.

opredeljeno v notranjem pravu države pogodbenice in kot se uporablja na ustreznem pravnem področju te države pogodbenice; (iii) drugo osebo, ki je opredeljena kot "javni uslužbenec" v notranjem pravu države pogodbenice. V nekaterih posebnih ukrepih iz II. poglavja te konvencije pa lahko "javni uslužbenec" pomeni katero koli osebo, ki dela v javnem sektorju ali opravlja javne storitve, kot je opredeljeno v notranjem pravu države pogodbenice in kot se uporablja na ustreznem pravnem področju te države pogodbenice;

(b) "tuji javni uslužbenec" je oseba z zakonodajnim, izvršilnim, upravnim ali sodnim mandatom v tuji državi, ne glede na to, ali je imenovana ali izvoljena, in oseba, ki dela v javnem sektorju tuje države, vključno z javno agencijo ali javnim podjetjem;

(c) "uslužbenec mednarodne organizacije" je mednarodni uradnik ali oseba, ki jo taka organizacija pooblasti, da deluje v njenem imenu;

(d) "premoženje" je materialno ali nematerialno, premično ali nepremično, opredmeteno ali neopredmeteno, ter pravni dokumenti ali listine, ki potrjujejo lastništvo ali delež v takem premoženju;

(e) "premoženjska korist, pridobljena s kaznivim dejanjem" pomeni kakršno koli premoženje, ki neposredno ali posredno izvira iz storjenega kaznivega dejanja ali je pridobljeno na njegovi podlagi;

(f) "zamrznitev" ali "zaseg" je začasna prepoved prenosa, zamenjave, razpolaganja s premoženjem ali njegovega pretoka ali začasna hramba premoženja ali nadzor na podlagi odredbe, ki jo izda sodišče ali drug pristojen organ;

(g) "odvzem" pomeni trajen odvzem premoženja na podlagi odredbe sodišča ali drugega pristojnega organa;

(h) "predhodno kaznivo dejanje" je kaznivo dejanje, katerega posledica je premoženjska korist, ki je lahko predmet kaznivega dejanja iz 23. člena 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 zaradi preiskave kaznivega dejanja in identifikacije oseb, udeleženih pri storitvi tega kaznivega dejanja.

3. člen

Področje uporabe

1. Ta konvencija se v skladu s pogoji, ki jih določa, uporablja za preprečevanje, preiskovanje in pregon korupcije ter zamrznitev, zaseg, odvzem in vrnitev premoženjske koristi, pridobljene s kaznivimi dejanji, določenimi v skladu s to konvencijo.

2. Razen če konvencija ne določa drugače, za njeno izvajanje ni nujno, da kazniva dejanja, določena v skladu s to konvencijo, ogrozijo državno premoženje ali ga oškodujejo.

4. člen

Varstvo suverenosti

1. Države pogodbenice izpolnjujejo svoje obveznosti iz te konvencije skladno z načeli suverene enakosti in ozemeljske celovitosti držav ter nevmešavanja v notranje zadeve držav.

2. Nobena določba te konvencije ne pooblašča države pogodbenice, da na ozemlju druge države izvaja jurisdikcijo in opravlja naloge, ki so v skladu z notranjim pravom te druge države v izključni pristojnosti njenih organov.

Chapter II
Preventive measures

Article 5

Preventive anti-corruption policies and practices

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anticorruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.

3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.

4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

Article 6

Preventive anti-corruption body or bodies

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

(a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;

(b) Increasing and disseminating knowledge about the prevention of corruption.

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

Article 7

Public sector

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:

(a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;

(b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;

(c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;

II. poglavje
Preventivni ukrepi

5. člen

Preventivne protikorupcijske usmeritve in postopki

1. Vsaka država pogodbenica v skladu s temeljnimi načeli svojega pravnega sistema sprejema in izvaja ali uporablja učinkovite in usklajene protikorupcijske usmeritve, ki spodbujajo sodelovanje družbe in izražajo načela vladavine prava, ustreznega vodenja javnih zadev in ustreznega upravljanja javnega premoženja, integriteto, preglednost in odgovornost.

2. Vsaka država pogodbenica si prizadeva, da vzpostavi in spodbuja učinkovite postopke za preprečevanje korupcije.

3. Vsaka država pogodbenica si prizadeva občasno oceniti ustrezne pravne dokumente in upravne ukrepe, da bi ugotovila, ali so primerni za preprečevanje korupcije in boj proti njej.

4. Države pogodbenice po potrebi in v skladu s temeljnimi načeli svojih pravnih sistemov sodelujejo med seboj in z ustreznimi mednarodnimi in regionalnimi organizacijami pri spodbujanju in razvijanju ukrepov iz tega člena. Tako sodelovanje lahko zajema udeležbo v mednarodnih programih in projektih za preprečevanje korupcije.

6. člen

Preventivni protikorupcijski organ ali organi

1. Vsaka država pogodbenica v skladu s temeljnimi načeli svoje pravne ureditve zagotovi obstoj organa ali po potrebi organov, ki preprečujejo korupcijo na navedene načine:

(a) z izvajanjem usmeritev iz 5. člena te konvencije ter po potrebi z nadziranjem in usklajevanjem izvajanja teh usmeritev;

(b) izpopolnjevanjem in širjenjem znanja o preprečevanju korupcije.

2. Vsaka država pogodbenica v skladu s temeljnimi načeli svojega pravnega sistema zagotovi organu ali organom iz prejšnjega odstavka potrebno neodvisnost, da lahko opravljajo svoje naloge učinkovito in brez nedovoljenih vplivov. Zagotoviti je treba potrebne materialne vire in specializirano osebje kakor tudi usposabljanje, ki ga osebje potrebuje, da lahko opravlja svoje naloge.

3. Vsaka država pogodbenica sporoči generalnemu sekretarju Združenih narodov ime in naslov organa ali organov, ki lahko pomagajo drugim državam pogodbenicam pri razvijanju in izvajanju posebnih ukrepov za preprečevanje korupcije.

7. člen

Javni sektor

1. Vsaka država pogodbenica si v skladu s temeljnimi načeli svojega pravnega sistema, in kadar je primerno, prizadeva, da sprejme, uporablja in izboljšuje postopke za izbiranje, zaposlovanje, stalnost, napredovanje in upokojitev uradnikov in drugih neizvoljenih javnih uslužbencev, ki:

(a) temeljijo na načelih učinkovitosti in preglednosti ter objektivnih merilih, kot so dosežki, nepristranskost in usposobljenost;

(b) vključujejo primerne postopke za izbiro in usposabljanje posameznikov za javne položaje, ki veljajo kot posebej občutljivi za korupcijo, ter po potrebi kroženje takih posameznikov na druge položaje;

(c) spodbujajo ustrezen osebni dohodek in pravične plačilne lestvice ob upoštevanju ravni gospodarskega razvoja države pogodbenice;

(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

Article 8

Codes of conduct for public officials

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.

3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.

4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

Article 9

Public procurement and management of public finances

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

(d) spodbujajo programe izobraževanja in usposabljanja za izpolnjevanje zahtev po pravilnem, poštenem in ustreznem opravljanju javnih nalog in zagotavljanje specializiranega in ustreznega usposabljanja za ozaveščanje o nevarnosti korupcije, ki so ji izpostavljeni pri opravljanju svojih nalog. Taki programi lahko vključujejo napotila na pravila ali standarde ravnanja na ustreznih področjih.

2. Vsaka država pogodbenica tudi preuči možnosti za sprejetje ustreznih zakonskih in upravnih ukrepov, skladnih z namenom te konvencije ter temeljnimi načeli notranjega prava, za predpisovanje meril za kandidaturo in izvolitev na javno funkcijo.

3. Vsaka država pogodbenica tudi preuči možnosti za sprejetje ustreznih zakonskih in upravnih ukrepov, skladnih z namenom te konvencije ter temeljnimi načeli notranjega prava, za povečanje preglednosti financiranja kandidatur za volitve na javno funkcijo in financiranje političnih strank, kadar je primerno.

4. Vsaka država pogodbenica si v skladu s temeljnimi načeli svojega notranjega prava prizadeva sprejeti, ohraniti in okrepiti sisteme, ki spodbujajo preglednost in preprečujejo nasprotje interesov.

8. člen

Pravila ravnanja za javne uslužbence

1. Vsaka država pogodbenica v skladu s temeljnimi načeli svojega pravnega sistema zaradi boja proti korupciji med drugim spodbuja integriteto, poštenost in odgovornost med svojimi javnimi uslužbenci.

2. Vsaka država pogodbenica si v okviru svojih institucionalnih in pravnih sistemov zlasti prizadeva uporabljati pravila ali standarde ravnanja za pravilno, pošteno in ustrezno opravljanje javnih nalog.

3. Za izvajanje določb tega člena vsaka država pogodbenica, v skladu s temeljnimi načeli svojega pravnega sistema, in kadar je primerno, upošteva ustrezne pobude regionalnih, medregionalnih in večstranskih organizacij, kot je Mednarodni kodeks ravnanja za javne uslužbence, priložen k resoluciji Generalne skupščine 51/59 z dne 12. decembra 1996.

4. Vsaka država pogodbenica v skladu s temeljnimi načeli svojega notranjega prava preuči možnosti za vzpostavitev ukrepov in sistemov, s katerimi javnim uslužbencem olajša poročanje o korupciji ustreznim organom, če jo zaznajo pri opravljanju svojih nalog.

5. Vsaka država pogodbenica si v skladu s temeljnimi načeli svojega notranjega prava in po potrebi prizadeva vzpostaviti ukrepe in sisteme, ki od javnih uslužbencev zahtevajo, da ustreznim organom med drugim prijavijo svoje dodatne dejavnosti, zaposlitev, naložbe, premoženje in večja darila ali ugodnosti, ki lahko povzročijo nasprotje interesov pri opravljanju njihovih nalog.

6. Vsaka država pogodbenica v skladu s temeljnimi načeli svojega notranjega prava preuči možnosti za sprejetje disciplinskih ali drugih ukrepov proti javnim uslužbencem, ki kršijo pravila ali standarde, določene v skladu s tem členom.

9. člen

Javna naročila in upravljanje javnih financ

1. Vsaka država pogodbenica v skladu s temeljnimi načeli svojega pravnega sistema sprejme potrebne ukrepe, da vzpostavi ustrezne sisteme javnih naročil, ki temeljijo na preglednosti, konkurenci in objektivnih merilih pri odločanju, in so med drugim učinkoviti pri preprečevanju korupcije. Taki sistemi, ki pri uporabi lahko upoštevajo ustrezne mejne vrednosti, med drugim vključujejo:

(a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

(b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;

(c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

(d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

(e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

(a) Procedures for the adoption of the national budget;

(b) Timely reporting on revenue and expenditure;

(c) A system of accounting and auditing standards and related oversight;

(d) Effective and efficient systems of risk management and internal control; and

(e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

Article 10

Public reporting

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

(b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

(c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

Article 11

Measures relating to the judiciary and prosecution services

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.

(a) javno obveščanje o postopkih javnih naročil in pogodbah, vključno z informacijami o razpisih za zbiranje ponudb in pomembnimi ali z njimi povezanimi informacijami o dodelitvi posla, kar morebitnim ponudnikom omogoča dovolj časa, da se pripravijo in predložijo svoje ponudbe;

(b) vnaprej določene pogoje za sodelovanje, vključno z merili za izbiro in dodelitev ter razpisnimi pravili, in njihovo objavo;

(c) uporabo objektivnih in vnaprej določenih meril za odločitve o javnih naročilih, s čimer se omogoči poznejše preverjanje pravilne uporabe pravil ali postopkov;

(d) učinkovit sistem notranje revizije, vključno z učinkovitim sistemom pritožbe, da se zagotovijo pravna sredstva, kadar se ne upoštevajo pravila ali postopki iz tega odstavka;

(e) po potrebi ukrepe za ureditev vprašanj, ki se nanašajo na osebje, odgovorno za javna naročila, kot so prijava interesa za posamezna javna naročila, postopki pregleda in zahteve po usposabljanju.

2. Vsaka država pogodbenica v skladu s temeljnimi načeli svojega pravnega sistema sprejme ustrezne ukrepe za spodbujanje preglednosti in odgovornosti pri upravljanju javnih financ. Taki ukrepi med drugim zajemajo:

(a) postopke za sprejetje državnega proračuna;

(b) pravočasno poročanje o prihodkih in odhodkih;

(c) sistem računovodskih in revizijskih standardov in povezanega pregleda nad delovanjem;

(d) učinkovite in uspešne sisteme obvladovanja tveganja in notranjega nadzora in

(e) pri neizpolnjevanju zahtev iz tega odstavka ustrezno ukrepanje za odpravo takega stanja.

3. Vsaka država pogodbenica sprejme take civilne in upravne ukrepe, ki so v skladu s temeljnimi načeli njenega notranjega prava potrebni, da se ohrani neoporečnost računovodskih knjig, evidenc, računovodskih izkazov ali drugih dokumentov, povezanih z javnimi odhodki in prihodki, ter prepreči ponarejanje takih dokumentov.

10. člen

Javno poročanje

Ob upoštevanju potrebe po boju proti korupciji vsaka država pogodbenica v skladu s temeljnimi načeli svojega notranjega prava sprejme potrebne ukrepe, da se poveča preglednost v javni upravi, vključno z njeno organizacijo, delovanjem in postopki odločanja, kadar je to primerno. Taki ukrepi lahko med drugim zajemajo:

(a) sprejemanje postopkov ali predpisov, ki omogočajo javnosti, da pridobi, kadar je to primerno, informacije o organizaciji, delovanju in postopkih odločanja javne uprave in ob ustreznem upoštevanju varovanja zasebnosti in osebnih podatkov o odločitvah in pravnih aktih, ki se nanašajo na posameznike;

(b) poenostavitev upravnih postopkov, kadar je to primerno, da se olajša dostop javnosti do pristojnih organov odločanja, in

(c) objavljanje informacij, ki lahko vključujejo redna poročila o nevarnostih za korupcijo v državni upravi.

11. člen

Ukrepi, povezani s sodstvom in organi pregona

1. Ob upoštevanju neodvisnosti sodstva in njegove ključne vloge v boju proti korupciji vsaka država pogodbenica v skladu s temeljnimi načeli svojega pravnega sistema in brez poseganja v neodvisnost sodstva sprejme ukrepe za krepitev integritete in preprečitev možnosti za korupcijo sodnikov. Taki ukrepi lahko zajemajo pravila v zvezi z njihovim ravnanjem.

2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

Article 12

Private sector

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.

2. Measures to achieve these ends may include, inter alia:

(a) Promoting cooperation between law enforcement agencies and relevant private entities;

(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;

(c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;

(d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;

(e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;

(f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

(a) The establishment of off-the-books accounts;

(b) The making of off-the-books or inadequately identified transactions;

(c) The recording of non-existent expenditure;

(d) The entry of liabilities with incorrect identification of their objects;

(e) The use of false documents; and

(f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

2. Ukrepi, podobni tistim iz prejšnjega odstavka, se lahko sprejmejo in uporabljajo v organih pregona v državah pogodbenicah, v katerih ti organi niso del sodstva, ampak so na podoben način neodvisni.

12. člen

Zasebni sektor

1. Vsaka država pogodbenica v skladu s temeljnimi načeli svojega notranjega prava sprejme ukrepe za preprečevanje korupcije v zasebnem sektorju, izboljševanje računovodskih in revizijskih standardov v zasebnem sektorju, in kadar je to primerno, zagotovi učinkovite, sorazmerne in odvračilne civilne, upravne ali kazenske sankcije za neizpolnjevanje takih ukrepov.

2. Ukrepi za uresničevanje teh ciljev lahko med drugim zajemajo:

(a) spodbujanje sodelovanja med organi odkrivanja in pregona ter subjekti zasebnega sektorja;

(b) spodbujanje razvoja standardov in postopkov, namenjenih varovanju integritete subjektov zasebnega sektorja, vključno s pravili ravnanja za pravilno, pošteno in ustrezno opravljanje dejavnosti vseh poslovnih subjektov, ter preprečevanju nasprotja interesov in spodbujanju dobre poslovne prakse v poslovnih subjektih in pogodbenih odnosih poslovnih subjektov z državo;

(c) spodbujanje preglednosti med subjekti zasebnega sektorja, vključno z ukrepi, kadar je to primerno, v zvezi z identifikacijo pravnih ali fizičnih oseb, vključenih v ustanovitev in upravljanje gospodarskih družb;

(d) preprečevanje zlorabe postopkov, ki urejajo subjekte zasebnega sektorja, vključno s postopki v zvezi s subvencijami in dovoljenji, ki jih dodelijo organi z javnimi pooblastili za gospodarske dejavnosti;

(e) preprečevanje nasprotij interesov z uvedbo omejitev, kakor je primerno in za ustrezno časovno obdobje, glede poklicnih dejavnosti nekdanjih javnih uslužbencev ali njihove zaposlitve v zasebnem sektorju po njihovem odstopu s položaja ali upokojitvi, kadar so take dejavnosti ali zaposlitev neposredno povezane z nalogami, ki so jih ti javni uslužbenci imeli ali nadzirali, ko so bili na tem položaju;

(f) zagotavljanje, da imajo zasebni poslovni subjekti ob upoštevanju njihove strukture in velikosti zadostne notranje revizijske kontrole, da lahko pomagajo pri preprečevanju in odkrivanju korupcije, in da se računovodska evidenca in potrebni računovodski izkazi takih zasebnih poslovnih subjektov ustrezno revidirajo in potrjujejo.

3. Da bi preprečila korupcijo, vsaka država pogodbenica v skladu z notranjo zakonodajo, ki se nanaša na vodenje knjig in evidenc, razkritje v računovodskih izkazih ter računovodske in revizijske standarde, sprejme potrebne ukrepe za prepoved dejanj, izvedenih z namenom storitve kaznivih dejanj, določenih v skladu s to konvencijo:

(a) neknjiženih računovodskih evidenc;

(b) opravljanja neknjiženih ali neprimerno opredeljenih poslov;

(c) evidentiranja neobstoječih stroškov;

(d) knjiženja obveznosti z nepravilno navedbo njihovega namena;

(e) uporabe ponarejenih dokumentov in

(f) namernega uničenja knjigovodskih listin prej, kot je predvideno z zakonom.

4. Vsaka država pogodbenica prepove davčne olajšave za stroške za podkupnine, ki so eden od znakov kaznivih dejanj, določenih v skladu s 15. in 16. členom te konvencije, in kadar je primerno, za druge stroške, ki nastanejo pri podpiranju korupcijskega ravnanja.

Article 13

Participation of society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

(a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;

(b) Ensuring that the public has effective access to information;

(c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;

(d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:

(i) For respect of the rights or reputations of others;

(ii) For the protection of national security or ordre public or of public health or morals.

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

13. člen

Sodelovanje družbe

1. Vsaka država pogodbenica sprejme ustrezne ukrepe v okviru svojih zmožnosti in v skladu s temeljnimi načeli svojega notranjega prava za spodbujanje aktivnega sodelovanja posameznikov in skupin zunaj javnega sektorja, kot so civilna družba, nevladne organizacije in skupnosti pri preprečevanju korupcije in boju proti njej, ter za ozaveščanje javnosti o obstoju in resnosti korupcije, vzrokih zanjo ter nevarnosti, ki jo pomeni. To sodelovanje je treba okrepiti z ukrepi, kot so:

(a) spodbujanje preglednosti odločanja ter prispevanja javnosti k odločanju;

(b) zagotavljanje učinkovitega dostopa javnosti do informacij;

(c) izvajanje dejavnosti obveščanja javnosti, ki prispevajo k zavračanju korupcije, kakor tudi programov izobraževanja javnosti, vključno s šolskimi in univerzitetnimi učnimi načrti;

(d) upoštevanje, spodbujanje in varovanje svobode pridobivanja, prejemanja, objavljanja in širjenja informacij o korupciji. Za to svobodo lahko veljajo nekatere omejitve, vendar le take, ki jih določa zakon in so potrebne:

(i) zaradi spoštovanja pravic in ugleda drugih;

(ii) zaradi varovanja državne varnosti, javnega reda, javnega zdravja ali morale.

2. Vsaka država pogodbenica sprejme ustrezne ukrepe, da zagotovi, da so ustrezni protikorupcijski organi iz te konvencije znani javnosti, in po potrebi zagotovi dostop do njih zaradi prijavljanja, vključno anonimnega, vseh dogodkov, ki se lahko obravnavajo kot kazniva dejanja, določena v skladu s to konvencijo.

Article 14

Measures to prevent money-laundering

1. Each State Party shall:

(a) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value 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 and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

(b) Without prejudice to article 46 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. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:

(a) To include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;

14. člen

Ukrepi za preprečevanje pranja denarja

1. Vsaka država pogodbenica:

(a) v okviru svojih pristojnosti vzpostavi celovit notranji sistem predpisov in nadzora za banke in nebančne finančne ustanove, vključno s fizičnimi ali pravnimi osebami, ki opravljajo uradne ali neuradne storitve za prenos denarja ali vrednosti, in po potrebi za druge organe, ki so zlasti dovzetni za pranje denarja, da bi preprečila in odkrila vse oblike pranja denarja, pri čemer tak sistem poudarja zahteve za identifikacijo stranke, in kadar je primerno, dejanskega premoženjskega upravičenca, vodenje evidenc ter poročanje o sumljivih transakcijah;

(b) ne glede na 46. člen te konvencije zagotovi, da lahko upravni in regulativni organi, organi odkrivanja in pregona ter drugi organi, katerih naloga je boj proti pranju denarja (vključno s pravosodnimi organi, kadar je to primerno v skladu z notranjim pravom) sodelujejo in izmenjavajo informacije na državni in mednarodni ravni v skladu s pogoji, ki jih predpisuje notranje pravo vsake države pogodbenice, in v ta namen preuči možnosti za ustanovitev finančne obveščevalne enote, ki bi delovala kot nacionalni center za zbiranje, preučevanje in širjenje informacij v zvezi z morebitnim pranjem denarja.

2. Države pogodbenice preučijo možnosti za izvajanje uresničljivih ukrepov za odkrivanje in spremljanje gibanja gotovine in ustreznih prenosljivih vrednostnih papirjev čez svoje meje, s tem da se zagotovi pravilna uporaba informacij in se nikakor ne ovira gibanje zakonitega kapitala. Taki ukrepi lahko vključujejo zahtevo, da posamezniki in poslovni subjekti prijavijo prenos večje količine gotovine in ustreznih prenosljivih vrednostnih papirjev čez mejo.

3. Države pogodbenice preučijo možnosti za izvajanje ustreznih in uresničljivih ukrepov, ki od finančnih ustanov, vključno s posredniki pri prenosu denarnih sredstev, zahtevajo, da:

(a) na obrazce za elektronski prenos sredstev in z njimi povezana sporočila vpišejo točne in popolne podatke o izdajatelju plačilnega naloga;

(b) To maintain such information throughout the payment chain; and

(c) To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

4. 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.

5. 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.

(b) take podatke ohranijo v celotni plačilni verigi in

(c) poostrijo nadzor nad prenosi sredstev, ki ne vsebujejo popolnih podatkov o izdajatelju plačilnega naloga.

4. Države pogodbenice naj pri ustanavljanju notranjega sistema predpisov in nadzora v skladu z določbami tega člena in ne glede na druge člene te konvencije kot smernice uporabijo ustrezne pobude regionalnih, medregionalnih in večstranskih organizacij proti pranju denarja.

5. Države pogodbenice si prizadevajo, da bi za boj proti pranju denarja razvile in spodbudile svetovno, regionalno, subregionalno in dvostransko sodelovanje med pravosodnimi organi, organi odkrivanja in pregona ter organi, ki urejajo finančno področje.

Chapter III
Criminalization and law enforcement

Article 15

Bribery of national public officials

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.

Article 16

Bribery of foreign public officials and officials of public international organizations

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, 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, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.

2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance by a foreign public official or an official of a public international organization, 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.

Article 17

Embezzlement, misappropriation or other diversion of property by a public official

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.

III. poglavje
Inkriminacija in kazenski pregon

15. člen

Podkupovanje domačih javnih uslužbencev

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 nedovoljene koristi javnemu uslužbencu, zanj ali za drugo fizično ali pravno osebo, da javni uslužbenec pri opravljanju 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 nedovoljeno korist, da javni uslužbenec pri opravljanju svojih uradnih dolžnosti opravi uradno dejanje ali ga ne opravi.

16. člen

Podkupovanje tujih javnih uslužbencev in uradnikov mednarodnih organizacij

1. Vsaka država pogodbenica sprejme zakonodajne in druge ukrepe, potrebne, da se kot kaznivo dejanje, kadar je storjeno naklepno, določi neposredno ali posredno obljubljanje, ponujanje ali dajanje nedovoljene koristi tujemu javnemu uslužbencu ali uradniku mednarodne organizacije, zanj ali za drugo fizično ali pravno osebo, da javni uslužbenec ali uradnik zaradi pridobitve ali ohranitve posla ali druge nedovoljene koristi v mednarodnem poslovanju pri opravljanju svojih uradnih dolžnosti opravi uradno dejanje ali ga ne opravi.

2. Vsaka država pogodbenica preuči sprejetje zakonodajnih in drugih ukrepov, potrebnih, da se kot kaznivo dejanje, kadar je storjeno naklepno, določi, kadar tuji javni uslužbenec ali uradnik mednarodne organizacije neposredno ali posredno napeljuje k nedovoljeni koristi ali jo sprejme, zase ali za drugo fizično ali pravno osebo, da javni uslužbenec ali uradnik pri opravljanju svojih uradnih dolžnosti opravi uradno dejanje ali ga ne opravi.

17. člen

Poneverba, neupravičena pridobitev ali druga neupravičena uporaba premoženja s strani javnih uslužbencev

Vsaka država pogodbenica sprejme zakonodajne in druge ukrepe, potrebne, da se kot kazniva določijo dejanja, kadar so storjena naklepno, poneverbe, neupravičene pridobitve ali neupravičena uporaba premoženja, javnih ali zasebnih sredstev ali vrednostnih papirjev ali druge stvari, zaupane javnemu uslužbencu zaradi njegovega položaja, s strani javnega uslužbenca zanj ali za drugo fizično ali pravno osebo.

Article 18

Trading in influence

Each State Party shall consider adopting 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 or any other person, directly or indirectly, of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage for the original instigator of the act or for any other person;

(b) The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage.

18. člen

Nezakonito posredovanje

Vsaka država pogodbenica preuči sprejetje zakonodajnih in drugih ukrepov, potrebnih, da se kot kazniva določijo dejanja, kadar so storjena naklepno:

(a) neposredno ali posredno obljubljanje, ponujanje ali dajanje nedovoljene koristi javnemu uslužbencu ali drugi osebi, da bi zlorabila svoj resnični ali domnevni vpliv, da bi od upravnega organa ali drugega organa z javnimi pooblastili države pogodbenice pridobila nedovoljeno korist za pobudnika dejanja ali katero koli drugo osebo;

(b) če javni uslužbenec ali druga oseba neposredno ali posredno zahteva ali sprejme nedovoljeno korist zase ali za drugo osebo, da bi zlorabila svoj resnični ali domnevni vpliv za pridobitev nedovoljene koristi od upravnega organa ali drugega organa z javnimi pooblastili države pogodbenice.

Article 19

Abuse of functions

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the abuse of functions or position, that is, the performance of or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity.

19. člen

Zloraba položaja

Vsaka država pogodbenica preuči sprejetje zakonodajnih in drugih ukrepov, potrebnih, da se kot kaznivo dejanje, kadar je storjeno naklepno, določi zloraba položaja, kar pomeni, da javni uslužbenec s kršitvijo zakonodaje pri opravljanju svojih nalog zaradi pridobitve nedovoljene koristi zase ali za drugo fizično ali pravno osebo opravi uradno dejanje ali ga ne opravi.

Article 20

Illicit enrichment

Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.

20. člen

Nezakonita obogatitev

Vsaka država pogodbenica glede na svojo ustavo in temeljna načela svojega pravnega sistema preuči sprejetje zakonodajnih in drugih ukrepov, potrebnih, da se kot kaznivo dejanje, kadar je storjeno naklepno, določi nezakonita obogatitev, kar pomeni občutno povečanje premoženja javnega uslužbenca, ki ga ne more ustrezno pojasniti glede na svoje zakonite prihodke.

Article 21

Bribery in the private sector

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

(a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;

(b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.

21. člen

Podkupovanje v zasebnem sektorju

Vsaka država pogodbenica preuči sprejetje zakonodajnih in drugih ukrepov, potrebnih, da se kot kazniva določijo dejanja, kadar so storjena naklepno med opravljanjem gospodarskih, finančnih ali poslovnih dejavnosti:

(a) neposredno ali posredno obljubljanje, ponujanje ali dajanje nedovoljene koristi osebi, ki vodi subjekt zasebnega sektorja ali dela zanj, za to ali drugo osebo, da bi s kršitvijo svojih dolžnosti opravila kakšno dejanje ali ga ne bi;

(b) če katera koli oseba, ki vodi subjekt zasebnega sektorja ali dela zanj, neposredno ali posredno zahteva ali sprejme nedovoljeno korist, zase ali za drugo osebo, da bi s kršitvijo svojih dolžnosti opravila kakšno dejanje ali ga ne bi.

Article 22

Embezzlement of property in the private sector

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally in the course of economic, financial or commercial activities, embezzlement by a person who directs or works, in any capacity, in a private sector entity of any property, private funds or securities or any other thing of value entrusted to him or her by virtue of his or her position.

22. člen

Poneverba v zasebnem sektorju

Vsaka država pogodbenica preuči sprejetje zakonodajnih in drugih ukrepov, potrebnih, da se kot kaznivo dejanje, kadar je storjeno naklepno med opravljanjem gospodarskih, finančnih ali poslovnih dejavnosti, določi, če oseba, ki vodi subjekt zasebnega sektorja ali dela zanj, poneveri kakršno koli premoženje, zasebna sredstva ali vrednostne papirje ali drugo stvar, zaupano tej osebi zaradi njenega položaja.

Article 23

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.

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 at a minimum a comprehensive range of criminal offences established in accordance with this Convention;

(c) For the purposes of subparagraph (b) above, 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.

23. člen

Pranje premoženjske koristi, pridobljene s kaznivim dejanjem

1. V skladu s temeljnimi načeli notranjega prava sprejme vsaka država pogodbenica 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 utaji ali prikrije nezakonit izvor premoženja ali pomaga osebi, ki je udeležena pri storitvi predhodnega kaznivega dejanja, da se izogne pravnim posledicam svojega ravnanja;

(ii) utaja ali prikrivanje prave narave, izvora, kraja, razpolaganja, gibanja ali lastništva premoženja ali pravic v zvezi z njim z vednostjo, da gre pri tem premoženju za premoženjsko korist, pridobljeno s kaznivim dejanjem;

(b) glede na temelje svoje pravne ureditve:

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

(ii) udeležba, povezovanje ali tajen dogovor o storitvi ali poskusu storitve kaznivih dejanj, določenih v skladu s tem členom, ter pomoč, napeljevanje, omogočanje in svetovanje pri storitvi takih kaznivih dejanj.

2. Za izvajanje ali uporabo prvega odstavka tega člena:

(a) si vsaka država pogodbenica prizadeva uporabljati prvi odstavek tega člena pri čim večjem številu predhodnih kaznivih dejanj;

(b) vsaka država pogodbenica vključi kot predhodna kazniva dejanja vsaj vsa kazniva dejanja, določena v skladu s to konvencijo;

(c) za namene pododstavka b predhodna kazniva dejanja vključujejo dejanja, storjena v jurisdikciji države pogodbenice in zunaj nje. Dejanja, storjena zunaj jurisdikcije 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 bila tam storjena;

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

(e) če to zahtevajo temeljna načela notranjega prava države pogodbenice, se lahko določi, da se kazniva dejanja iz prvega odstavka tega člena ne nanašajo na osebe, ki so storile predhodno kaznivo dejanje.

Article 24

Concealment

Without prejudice to the provisions of article 23 of this Convention, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally after the commission of any of the offences established in accordance with this Convention without having participated in such offences, the concealment or continued retention of property when the person involved knows that such property is the result of any of the offences established in accordance with this Convention.

24. člen

Prikrivanje

Ne glede na 23. člen te konvencije vsaka država pogodbenica preuči sprejetje zakonodajnih in drugih ukrepov, potrebnih, da se kot kaznivo dejanje določi, kadar oseba prikrije premoženje ali ga obdrži, če ve, da je bilo premoženje pridobljeno s kaznivim dejanjem, določenim v skladu s to konvencijo, kadar je storjeno naklepno in po storitvi dejanja, določenega v skladu s to konvencijo, ter brez udeležbe pri takem kaznivem dejanju.

Article 25

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:

25. člen

Oviranje pravosodja

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

(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 established in accordance with 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 established in accordance with this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public official.

Article 26

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 the offences established in accordance with 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.

Article 27

Participation and attempt

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.

2. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, any attempt to commit an offence established in accordance with this Convention.

3. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, the preparation for an offence established in accordance with this Convention.

Article 28

Knowledge, intent and purpose as elements of an offence

Knowledge, intent or purpose required as an element of an offence established in accordance with this Convention may be inferred from objective factual circumstances.

Article 29

Statute of limitations

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 established in accordance with this Convention and establish a longer statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice.

Article 30

Prosecution, adjudication and sanctions

1. Each State Party shall make the commission of an offence established in accordance with this Convention liable to sanctions that take into account the gravity of that offence.

(a) uporaba fizične sile, grožnje ali ustrahovanje ali obljubljanje, ponujanje ali dajanje nedovoljene koristi, da bi se dosegla kriva izpovedba ali da bi se vplivalo na pričanje ali izvajanje dokazov v postopku v zvezi s storitvijo kaznivih dejanj, določenih v skladu s to konvencijo;

(b) uporaba fizične sile, grožnje ali ustrahovanje, da bi se vplivalo na opravljanje uradnih dolžnosti uradnih oseb v pravosodju ter organih odkrivanja in pregona v zvezi s storitvijo kaznivih dejanj, določenih v skladu s to konvencijo. Nobena določba tega pododstavka ne posega v pravico držav pogodbenic, da s svojo zakonodajo ščitijo tudi druge javne uslužbence.

26. člen

Odgovornost pravnih oseb

1. Vsaka država pogodbenica skladno s svojimi pravnimi načeli sprejme potrebne ukrepe za določitev odgovornosti pravnih oseb za udeležbo pri kaznivih dejanjih, določenih v skladu s to konvencijo.

2. Glede na pravna načela 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. Vsaka 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.

27. člen

Udeležba in poskus

1. Vsaka država pogodbenica sprejme v skladu s svojim notranjim pravom zakonodajne in druge ukrepe, potrebne, da se kot kazniva določi udeležba pri kaznivem dejanju v kateri koli vlogi, kakor je sostorilec, pomagač ali napeljevalec h kaznivemu dejanju, določenemu v skladu s to konvencijo.

2. Vsaka država pogodbenica lahko v skladu s svojim notranjim pravom sprejme zakonodajne in druge ukrepe, potrebne, da se poskus storitve kaznivega dejanja, določenega v skladu s to konvencijo, določi kot kazniv.

3. Vsaka država pogodbenica lahko v skladu s svojim notranjim pravom sprejme zakonodajne in druge ukrepe, potrebne, da se pripravljanje na kaznivo dejanje, določeno v skladu s to konvencijo, določi kot kaznivo.

28. člen

Vedenje, naklep in namen kot znaki kaznivega dejanja

O vedenju, naklepu ali namenu kot znakih kaznivega dejanja, določenega v skladu s to konvencijo, se lahko sklepa na podlagi objektivnih dejanskih okoliščin.

29. člen

Zastaranje

Vsaka država pogodbenica v skladu s svojim notranjim pravom po potrebi določi dolg zastaralni rok, v katerem je treba začeti postopke za kaznivo dejanje, določeno v skladu s to konvencijo, in določi daljši zastaralni rok ali pretrganje zastaranja, kadar se je domnevni storilec kaznivega dejanja izognil postopku.

30. člen

Kazenski pregon, sojenje in sankcije

1. Vsaka država pogodbenica za kaznivo dejanje, določeno v skladu s to konvencijo, določi sankcije glede na težo takega kaznivega dejanja.

2. Each State Party shall take such measures as may be necessary to establish or maintain, in accordance with its legal system and constitutional principles, an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention.

3. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences established in accordance with 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.

4. In the case of offences established in accordance with 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.

5. Each State Party shall take into account the gravity of the offences concerned when considering the eventuality of early release or parole of persons convicted of such offences.

6. Each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures through which a public official accused of an offence established in accordance with this Convention may, where appropriate, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from:

(a) Holding public office; and

(b) Holding office in an enterprise owned in whole or in part by the State.

8. Paragraph 1 of this article shall be without prejudice to the exercise of disciplinary powers by the competent authorities against civil servants.

9. 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.

10. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences established in accordance with this Convention.

Article 31

Freezing, seizure and confiscation

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences established in accordance with 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 established in accordance with this Convention.

2. Each State Party shall take 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.

2. Vsaka država pogodbenica sprejme v skladu s svojo pravno ureditvijo in ustavnimi načeli ukrepe, potrebne za določitev in ohranjanje ravnotežja med imunitetami ali privilegiji glede jurisdikcije, ki jih podeli svojim javnim uslužbencem pri opravljanju svojih nalog, in možnostjo, da po potrebi učinkovito preiskuje, kazensko preganja in razsoja o kaznivih dejanjih, določenih v skladu s to konvencijo.

3. Vsaka država pogodbenica si prizadeva zagotoviti, da se diskrecijska pravica v njenem notranjem pravu v zvezi s kazenskim pregonom oseb zaradi kaznivih dejanj, določenih v skladu s to konvencijo, uresniči tako, da kar najbolj poveča učinkovitost ukrepov odkrivanja in pregona v zvezi z navedenimi kaznivimi dejanji ob upoštevanju potrebe, da se prepreči storitev takih dejanj.

4. Pri kaznivih dejanjih, določenih v skladu s to konvencijo, vsaka država pogodbenica v skladu s svojim notranjim pravom in ob ustreznem upoštevanju pravic obrambe sprejme take zakonske in druge ukrepe, s katerimi si prizadeva zagotoviti, da pogoji, od katerih so odvisne odločitve o izpustitvi med sojenjem ali pritožbenim postopkom, upoštevajo potrebo po zagotovitvi navzočnosti obtoženca v nadaljnjem kazenskem postopku.

5. Vsaka država pogodbenica upošteva težo kaznivih dejanj, kadar se odloča o morebitnem predčasnem ali pogojnem odpustu oseb, obsojenih zaradi takih kaznivih dejanj.

6. Vsaka država pogodbenica v skladu s temeljnimi načeli svoje pravne ureditve preuči uvedbo postopkov, s katerimi lahko ustrezni organ ob upoštevanju domneve nedolžnosti po potrebi odstavi, začasno odstavi ali premesti javnega uslužbenca, obtoženo kaznivega dejanja, določenega v skladu s to konvencijo.

7. Kadar teža kaznivega dejanja to upravičuje, vsaka država pogodbenica v skladu s temeljnimi načeli svoje pravne ureditve preuči uvedbo postopkov, s katerimi se na podlagi odredbe sodišča ali z drugim ustreznim sredstvom osebam, obsojenim zaradi kaznivih dejanj, določenih v skladu s to konvencijo, za obdobje, ki ga določa njeno notranje pravo, prepove opravljanje:

(a) javne funkcije in

(b) funkcije v poslovnem subjektu, ki je v celoti ali delno v lasti države.

8. Prvi odstavek tega člena ne vpliva na pooblastila pristojnih organov, da izvajajo disciplinske postopke proti uradnikom.

9. Nobena določba te konvencije ne vpliva na načelo, da opis kaznivih dejanj, določenih v skladu s to konvencijo, in možnosti obrambe ali drugih pravnih načel za nadzor zakonitosti ravnanja izhaja izključno iz notranjega prava države pogodbenice in da se taka kazniva dejanja preganjajo in kaznujejo v skladu s tem pravom.

10. Države pogodbenice si prizadevajo spodbujati ponovno vključitev v družbo tistih oseb, ki so bile obsojene zaradi kaznivih dejanj, določenih v skladu s to konvencijo.

31. člen

Zamrznitev, zaseg in odvzem

1. Vsaka država pogodbenica sprejme v največjem obsegu, ki ga dopušča notranja pravna ureditev, ukrepe, potrebne za odvzem:

(a) premoženjske koristi, pridobljene s kaznivimi dejanji, določenimi v skladu s to konvencijo, ali premoženja, katerega vrednost ustreza vrednosti te premoženjske koristi;

(b) premoženja, opreme ali drugih predmetov, ki se uporabljajo ali so namenjena za kazniva dejanja, določena v skladu s to konvencijo.

2. Vsaka država pogodbenica sprejme zaradi morebitnega odvzema ukrepe, potrebne za prepoznavo, odkrivanje, zamrznitev ali zaseg vsega, kar je omenjeno v prvem odstavku tega člena.

3. Each State Party shall adopt, in accordance with its domestic law, such legislative and other measures as may be necessary to regulate the administration by the competent authorities of frozen, seized or confiscated property covered in paragraphs 1 and 2 of this article.

4. If such 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.

5. If such 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.

6. Income or other benefits derived from such proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such 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.

7. For the purpose of this article and article 55 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 seized. A State Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

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

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

10. 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 32

Protection of witnesses, experts and victims

1. Each State Party shall take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them.

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 witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video 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.

5. Each State Party shall, subject to its domestic law, enable the 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.

3. Vsaka država pogodbenica v skladu s svojim notranjim pravom sprejme take zakonske in druge ukrepe, s katerimi uredi upravljanje pristojnih organov z zamrznjenim, zaseženim ali odvzetim premoženjem iz prvega in drugega odstavka tega člena.

4. Kadar je premoženjska korist, pridobljena s kaznivim dejanjem, v celoti ali delno preoblikovana ali zamenjana v drugo premoženje, se ukrepi iz tega člena namesto za premoženjsko korist uporabijo za to premoženje.

5. Kadar se premoženjska korist, pridobljena s kaznivim dejanjem, vključi v zakonito pridobljeno premoženje, se lahko tako premoženje ne glede na pooblastila v zvezi z zamrznitvijo ali zasegom odvzame v višini ocenjene vrednosti vključene premoženjske koristi, pridobljene s kaznivim dejanjem.

6. Za dohodek ali drugo korist, ki izvira iz premoženjske koristi, pridobljene s kaznivim dejanjem, iz premoženja, v katero se taka premoženjska korist preoblikuje ali zamenja, ali iz premoženja, v katero je vključena taka premoženjska korist, se ukrepi iz tega člena uporabijo na enak način in v enakem obsegu kot za premoženjsko korist, pridobljeno s kaznivim dejanjem.

7. Za namen tega člena in 55. člena te konvencije vsaka država pogodbenica pooblasti svoja sodišča ali druge pristojne organe, da odredijo, da se bančni, finančni ali poslovni podatki dajo na razpolago ali zasežejo. Država pogodbenica ne sme odkloniti ravnanja po tem odstavku zaradi varovanja tajnosti bančnih podatkov.

8. Države pogodbenice lahko preučijo možnost, da od storilca kaznivega dejanja zahtevajo, da dokaže zakonit izvor domnevne premoženjske koristi, pridobljene s kaznivim dejanjem, ali drugega premoženja za odvzem, če je taka zahteva skladna s temeljnimi načeli notranjega prava držav pogodbenic in naravo sodnih in drugih postopkov.

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

10. Nobena določba tega člena ne vpliva na načelo, da se ukrepi, na katere se nanaša, opredelijo in izvajajo v skladu z določbami notranjega prava države pogodbenice in ob njihovem upoštevanju.

32. člen

Zaščita prič, izvedencev in oškodovancev

1. Vsaka država pogodbenica sprejme ustrezne ukrepe v skladu s svojo notranjepravno ureditvijo in v okviru svojih možnosti za zagotovitev učinkovite zaščite pred morebitnim maščevanjem ali zastraševanjem prič in izvedencev, ki pričajo o kaznivih dejanjih, določenih v skladu s to konvencijo, in po potrebi njihovih sorodnikov in drugih bližnjih.

2. Ukrepi iz prvega odstavka tega člena lahko brez poseganja v pravice obdolženca in vključno s pravico do zakonitega sodnega postopka med drugim vključujejo:

(a) uvedbo postopkov za fizično varovanje teh oseb v obsegu, ki je potreben in izvedljiv, kakor sta njihova premestitev, in kadar je ustrezno, dovoljenje, da se podatki glede identitete in prebivališča teh oseb ne razkrijejo ali delno razkrijejo;

(b) pravila dokaznega postopka, ki dovoljujejo pričam in izvedencem, da pričajo na način, ki zagotavlja njihovo varnost, kakor je pričanje z uporabo komunikacijske tehnologije, kot je video ali druga primerna sredstva.

3. Države pogodbenice se lahko odločijo za sklenitev sporazumov ali dogovorov z drugimi državami glede premestitve oseb iz prvega odstavka tega člena.

4. Določbe tega člena veljajo tudi za oškodovance, če so priče.

5. Vsaka država pogodbenica v skladu s svojim notranjim pravom omogoči, da se mnenja in pomisleki oškodovancev predstavijo in preučijo v ustreznih fazah kazenskega postopka zoper storilca kaznivega dejanja na način, ki ne posega v pravice obrambe.

Article 33

Protection of reporting persons

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

33. člen

Zaščita prijaviteljev

Vsaka država pogodbenica preuči vključitev ustreznih ukrepov v svojo notranjepravno ureditev, s katerimi lahko zagotovi zaščito pred vsakršnim neupravičenim ravnanjem za vsakogar, ki pristojnim organom v dobri veri in utemeljeno prijavi katero koli dejstvo v zvezi s kaznivimi dejanji, določenimi v skladu s to konvencijo.

Article 34

Consequences of acts of corruption

With due regard to the rights of third parties acquired in good faith, each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to address consequences of corruption. In this context, States Parties may consider corruption a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.

34. člen

Posledice korupcijskih dejanj

Ob ustreznem upoštevanju pravic tretjih oseb, pridobljenih v dobri veri, vsaka država pogodbenica v skladu s temeljnimi načeli svojega notranjega prava sprejme ukrepe za obravnavo posledic korupcije. S tem v zvezi lahko države pogodbenice obravnavajo korupcijo kot pomemben dejavnik v pravnem postopku za razveljavitev ali preklic pogodbe, umik koncesije ali drugih podobnih instrumentov ali uporabe drugega ukrepa za odpravo posledic korupcije.

Article 35

Compensation for damage

Each State Party shall take such measures as may be necessary, in accordance with principles of its domestic law, to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

35. člen

Odškodnina

Vsaka država pogodbenica sprejme v skladu s temeljnimi načeli svojega notranjega prava potrebne ukrepe, s katerimi zagotovijo, da imajo subjekti ali osebe, ki so bili oškodovani zaradi korupcijskega dejanja, pravico sprožiti pravni postopek za odškodnino zoper odgovorne za škodo.

Article 36

Specialized authorities

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

36. člen

Specializirani organi

Vsaka država pogodbenica v skladu s temeljnimi načeli svoje pravne ureditve zagotovi obstoj organa ali organov oziroma oseb, specializiranih za boj proti korupciji, z odkrivanjem in pregonom. Takemu organu ali organom oziroma osebam se zagotovi potrebna neodvisnost v skladu s temeljnimi načeli pravne ureditve države pogodbenice, da lahko opravljajo svoje naloge učinkovito in brez nedovoljenih vplivov. Osebe ali osebje takega organa ali organov mora biti primerno usposobljeno in imeti sredstva za opravljanje svojih nalog.

Article 37

Cooperation with law enforcement authorities

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with this Convention to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds.

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 established in accordance with 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 established in accordance with this Convention.

4. Protection of such persons shall be, mutatis mutandis, as provided for in article 32 of this Convention.

37. člen

Sodelovanje z organi odkrivanja in pregona

1. Vsaka država pogodbenica sprejme ustrezne ukrepe, s katerimi spodbudi osebe, ki sodelujejo ali so sodelovale pri storitvi kaznivega dejanja, določenega v skladu s to konvencijo, da pristojnim organom priskrbijo podatke, koristne za preiskavo in dokazovanje, in jim zagotovijo dejansko pomoč, ki lahko prispeva k temu, da se storilcem odvzame premoženjska korist, pridobljena s kaznivim dejanjem, in taka premoženjska korist povrne.

2. Vsaka država pogodbenica preuči možnost, da v ustreznih primerih zmanjša kazen obtožencu, ki bistveno pomaga pri preiskavi ali pregonu kaznivega dejanja, določenega v skladu s to konvencijo.

3. Vsaka država pogodbenica preuči, ali naj predvidi možnost, da v skladu s temeljnimi načeli notranjega prava podeli imuniteto pred pregonom osebi, ki bistveno pomaga pri preiskavi ali pregonu kaznivega dejanja, določenega v skladu s to konvencijo.

4. Zaščita teh oseb se zagotovi s smiselno uporabo 32. člena 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 38

Cooperation between national authorities

Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between, on the one hand, its public authorities, as well as its public officials, and, on the other hand, its authorities responsible for investigating and prosecuting criminal offences. Such cooperation may include:

(a) Informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the offences established in accordance with articles 15, 21 and 23 of this Convention has been committed; or

(b) Providing, upon request, to the latter authorities all necessary information.

Article 39

Cooperation between national authorities and the private sector

1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.

2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and prosecuting authorities the commission of an offence established in accordance with this Convention.

Article 40

Bank secrecy

Each State Party shall ensure that, in the case of domestic criminal investigations of offences established in accordance with this Convention, there are appropriate mechanisms available within its domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.

Article 41

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 established in accordance with this Convention.

Article 42

Jurisdiction

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with 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.

5. Kadar lahko oseba iz prvega odstavka tega člena iz ene države pogodbenice bistveno pomaga pristojnim organom druge države pogodbenice, se lahko državi pogodbenici v skladu s svojim notranjim pravom odločita za sklenitev sporazumov ali dogovorov, po katerih lahko druga država pogodbenica zagotovi obravnavo, določeno v drugem in tretjem odstavku tega člena.

38. člen

Sodelovanje med državnimi organi

Vsaka država pogodbenica v skladu s svojim notranjim pravom sprejme potrebne ukrepe za spodbuditev sodelovanja med svojimi organi z javnimi pooblastili in javnimi uslužbenci na eni strani ter svojimi organi, pristojnimi za preiskavo in pregon kaznivih dejanj, na drugi strani. Pri takem sodelovanju lahko:

(a) prvi organi na lastno pobudo obveščajo organe, pristojne za preiskavo in pregon kaznivih dejanj, kadar obstajajo utemeljeni razlogi za domnevo, da je bilo storjeno katero koli kaznivo dejanje, določeno v skladu s 15., 21. in 23. členom te konvencije, ali

(b) prvi organi na zahtevo organov, pristojnih za preiskavo in pregon, priskrbijo vse potrebne podatke.

39. člen

Sodelovanje med državnimi organi in zasebnim sektorjem

1. Vsaka država pogodbenica sprejme v skladu s svojim notranjim pravom potrebne ukrepe za sodelovanje med državnimi organi, pristojnimi za preiskavo in pregon, ter subjekti zasebnega sektorja, zlasti finančnih ustanov, v zvezi z zadevami, ki vključujejo storitev kaznivih dejanj, določenih v skladu s to konvencijo.

2. Vsaka država pogodbenica preuči možnost za spodbujanje svojih državljanov in drugih oseb, ki običajno prebivajo na njenem ozemlju, da državnim organom, pristojnim za preiskavo in pregon, prijavijo storitev kaznivega dejanja, določenega v skladu s to konvencijo.

40. člen

Tajnost bančnih podatkov

Vsaka država pogodbenica zagotovi, da so v domačih kazenskih preiskavah kaznivih dejanj, določenih v skladu s to konvencijo, v njeni notranjepravni ureditvi na voljo ustrezni mehanizmi za premostitev ovir, ki se lahko pojavijo zaradi izvajanja zakonov o varovanju tajnosti bančnih podatkov.

41. člen

Kazenska evidenca

Vsaka država pogodbenica lahko sprejme potrebne zakonske ali druge ukrepe, da pod takimi pogoji in za namene, za katere meni, da so primerni, upošteva vsakršno prejšnjo obsodbo domnevnega storilca kaznivega dejanja v drugi državi zaradi uporabe takih podatkov v kazenskem postopku v zvezi s kaznivim dejanjem, določenim v skladu s to konvencijo.

42. člen

Sodna pristojnost

1. Vsaka država pogodbenica sprejme potrebne ukrepe za določitev svoje sodne pristojnosti za kazniva dejanja, določena v skladu s to konvencijo, kadar je kaznivo dejanje storjeno:

(a) na ozemlju te države pogodbenice ali

(b) na plovilu, ki ob storitvi kaznivega dejanja pluje pod zastavo te države pogodbenice, ali na letalu, ki je ob storitvi kaznivega dejanja registrirano po zakonih te države pogodbenice.

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; or

(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 one of those established in accordance with article 23, 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 23, paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory; or

(d) The offence is committed against the State Party.

3. For the purposes of article 44 of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with 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 take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with 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 any 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 shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

2. Ob upoštevanju 4. člena te konvencije lahko država pogodbenica določi sodno pristojnost za katero koli kaznivo dejanje, kadar:

(a) je kaznivo dejanje storjeno zoper državljana te države pogodbenice ali

(b) kaznivo dejanje stori državljan te države pogodbenice ali oseba brez državljanstva, ki običajno prebiva na njenem ozemlju, ali

(c) je to kaznivo dejanje eno tistih, določenih v skladu s podtočko ii točke b prvega odstavka 23. člena te konvencije, in je bilo storjeno zunaj njenega ozemlja zaradi storitve kaznivega dejanja, določenega v skladu s podtočkama ii ali i točke a ali podtočke i točke b prvega odstavka 23. člena te konvencije, na njenem ozemlju ali

(d) je kaznivo dejanje storjeno zoper državo pogodbenico.

3. Za namene 44. člena te konvencije vsaka država pogodbenica sprejme potrebne ukrepe za določitev sodne pristojnosti za kazniva dejanja, določena v skladu s to konvencijo, kadar je domnevni storilec kaznivega dejanja na njenem ozemlju in ga ne izroči drugi državi le zato, ker je njen državljan.

4. Vsaka država pogodbenica lahko sprejme potrebne ukrepe za določitev sodne pristojnosti za kazniva dejanja, določena v skladu s to konvencijo, kadar je domnevni storilec kaznivega dejanja na njenem ozemlju in ga ne izroči drugi državi.

5. Kadar je država pogodbenica, ki izvaja sodno pristojnost po prvem ali drugem odstavku tega člena, uradno obveščena ali na drug način izve, da druge države pogodbenice vodijo preiskavo, pregon ali sodni postopek v zvezi z istim ravnanjem, se pristojni organi teh držav pogodbenic ustrezno posvetujejo zaradi uskladitve svojih ukrepov.

6. Ne glede na norme splošnega mednarodnega prava ta konvencija ne izključuje izvajanja pristojnosti v zvezi s kaznivimi dejanji, ki jo država pogodbenica določi v skladu s svojim notranjim pravom.

Chapter IV
International cooperation

Article 43

International cooperation

1. States Parties shall cooperate in criminal matters in accordance with articles 44 to 50 of this Convention. Where appropriate and consistent with their domestic legal system, States Parties shall consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption.

2. In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties.

Article 44

Extradition

1. This article shall apply to the offences established in accordance with this Convention where the person who is the subject of the request for extradition is present 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.

IV. poglavje
Mednarodno sodelovanje

43. člen

Mednarodno sodelovanje

1. Države pogodbenice sodelujejo pri kazenskih zadevah v skladu s 44. do 50. členom te konvencije. Kadar je primerno in skladno z njihovo notranjepravno ureditvijo, se lahko države pogodbenice odločijo, da si pomagajo pri preiskavah in postopkih v civilnih in upravnih zadevah v zvezi s korupcijo.

2. Kadar je pri zadevah mednarodnega sodelovanja dvojna kaznivost pogoj, se šteje, da je izpolnjen, ne glede na to, ali zakonodaja zaprošene države pogodbenice uvršča kaznivo dejanje v isto skupino kaznivih dejanj ali ga enako poimenuje kakor država pogodbenica prosilka, če je ravnanje, ki je kaznivo dejanje, za katero je zaprošena pomoč, kaznivo dejanje po zakonodaji obeh držav pogodbenic.

44. člen

Izročitev

1. Ta člen se uporablja za kazniva dejanja, določena v skladu s to konvencijo, kadar je oseba, katere izročitev se zahteva, na ozemlju zaprošene države pogodbenice, če je kaznivo dejanje, zaradi katerega se zahteva izročitev, kaznivo po notranjem pravu zaprošene države pogodbenice in države pogodbenice, ki zahteva izročitev.

2. Notwithstanding the provisions of paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law.

3. If the request for extradition includes several separate offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.

4. 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. A State Party whose law so permits, in case it uses this Convention as the basis for extradition, shall not consider any of the offences established in accordance with this Convention to be a political offence.

5. 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.

6. A State Party that makes extradition conditional on the existence of a treaty shall:

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

(b) If it does 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

2. Ne glede na prvi odstavek tega člena lahko država pogodbenica, katere pravo to dovoljuje, dovoli izročitev osebe zaradi kaznivega dejanja iz te konvencije, ki ni kaznivo po njenem notranjem pravu.

3. Kadar prošnja za izročitev vključuje več posamičnih kaznivih dejanj, od katerih je vsaj eno tako, za katero je izročitev obvezna, in nekaj kaznivih dejanj, za katera izročitev ni obvezna zaradi trajanja zaporne kazni, vendar so povezana s kaznivimi dejanji, določenimi v skladu s to konvencijo, lahko zaprošena država pogodbenica uporabi ta člen tudi za ta kazniva dejanja.

4. Za vsako kaznivo dejanje, na katero se nanaša ta člen, se šteje, da je vključeno kot kaznivo dejanje, za katero je izročitev obvezna, v veljavni pogodbi o izročitvi med državami pogodbenicami. Države pogodbenice se zavezujejo, da bodo v vsako pogodbo o izročitvi, ki jo sklenejo, vključile taka kazniva dejanja kot kazniva dejanja, za katera je izročitev obvezna. Vsaka država pogodbenica, katere pravo to dovoljuje, ne šteje nobenega kaznivega dejanja, določenega v skladu s to konvencijo, za politično kaznivo dejanje, kadar uporablja to konvencijo kot podlago za izročitev.

5. Če država pogodbenica, ki pogojuje izročitev z obstojem pogodbe, prejme prošnjo za izročitev od druge države pogodbenice, s katero nima sklenjene pogodbe o izročitvi, lahko to konvencijo šteje kot pravno podlago za izročitev v zvezi s katerim koli kaznivim dejanjem, na katero se nanaša ta člen.

6. Država pogodbenica, ki izročitev pogojuje z obstojem pogodbe:

(a) ob deponiranju svoje listine o ratifikaciji, sprejetju ali odobritvi te konvencije ali pristopu k njej obvesti generalnega sekretarja Združenih narodov, ali bo to konvencijo uporabljala kot pravno podlago za sodelovanje z drugimi državami pogodbenicami te konvencije pri izročitvi, in

(b) si, če ne uporablja te konvencije kot pravne podlage za sodelovanje pri izročitvi, prizadeva, kadar je to primerno, skleniti pogodbe o izročitvi z drugimi državami pogodbenicami, da bi lahko izvajala ta člen.

7. Države pogodbenice, ki izročitve ne pogojujejo z obstojem pogodbe, med seboj štejejo kazniva dejanja, na katera se nanaša ta člen, kot kazniva dejanja, za katera je izročitev obvezna.

8. Za izročitev veljajo pogoji, predvideni z notranjim pravom zaprošene države pogodbenice ali z veljavnimi pogodbami o izročitvi, med drugim vključno s pogoji, ki se nanašajo na najnižjo kazen, za katero se lahko zahteva izročitev, in z razlogi, na podlagi katerih lahko zaprošena država pogodbenica zavrne izročitev.

9. Države pogodbenice si skladno s svojim notranjim pravom prizadevajo pospešiti postopke za izročitev in poenostaviti zahteve dokaznega postopka, ki se nanašajo nanje, v zvezi s katerim koli kaznivim dejanjem, na katero se nanaša ta člen.

10. Zaprošena država pogodbenica lahko v skladu z določbami svojega notranjega prava in pogodbami o izročitvi ter po ugotovitvi, da okoliščine to upravičujejo in so nujne, na prošnjo države pogodbenice, ki zahteva izročitev, odvzame prostost osebi, za katero se zahteva izročitev in je na njenem ozemlju, ali drugače primerno ukrepa, da zagotovi njeno navzočnost v postopku za izročitev.

11. Če država pogodbenica domnevnega storilca kaznivega dejanja, ki je na njenem ozemlju, ne izroči zaradi kaznivega dejanja, na katero se nanaša ta člen, samo zato, ker je njen državljan, mora na zahtevo države pogodbenice, ki prosi za izročitev, primer nemudoma predati svojim pristojnim organom zaradi pregona. Ti organi sprejmejo odločitev in izvedejo postopke tako kot pri katerem koli drugem težjem kaznivem dejanju po notranjem pravu te države pogodbenice. Državi pogodbenici sodelujeta, zlasti pri postopku in dokazovanju, da bi zagotovili učinkovitost pregona.

12. 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 11 of this article.

13. 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 State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.

14. 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.

15. 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.

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

17. 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.

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

Article 45

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 established in accordance with this Convention in order that they may complete their sentences there.

Article 46

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.

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 26 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;

12. Če državi pogodbenici njeno notranje pravo dovoljuje, da izroči ali drugače preda osebo, ki je njen državljan, le pod pogojem, da bo ta oseba vrnjena navedeni državi pogodbenici zaradi prestajanja kazni, ki ji je izrečena ob koncu sojenja ali postopka, zaradi katerega je zahtevana izročitev ali predaja te osebe, in da država pogodbenica, ki zahteva izročitev te osebe, soglaša s to možnostjo in drugimi pogoji, za katere državi menita, da so primerni, se taka pogojna izročitev ali predaja šteje za izpolnitev obveznosti iz enajstega odstavka tega člena.

13. Če se izročitev zaradi izvršitve kazni zavrne, ker je zahtevana oseba državljan zaprošene države pogodbenice, ta, če ji notranje pravo to dovoljuje in v skladu z njegovimi zahtevami, na zahtevo države pogodbenice, ki prosi za izročitev, preuči možnost za izvršitev kazni, ki je bila izrečena po notranjem pravu države pogodbenice, ki prosi za izročitev, ali preostanka kazni.

14. Osebi, v zvezi s katero poteka postopek zaradi kaznivega dejanja, na katero se nanaša ta člen, se zagotovi pravična obravnava v vseh fazah postopka, vključno z vsemi pravicami in jamstvi, ki jih zagotavlja notranje pravo države pogodbenice na ozemlju, na katerem je oseba.

15. Nobena določba te konvencije se ne sme razlagati kot obveznost za izročitev, če ima zaprošena država pogodbenica utemeljen razlog, da meni, da je prošnja vložena zaradi pregona ali kaznovanja osebe zaradi njenega spola, rase, vere, državljanstva, etnične pripadnosti ali političnega prepričanja, ali da bi ugoditev prošnji škodila položaju te osebe iz katerega koli tega razloga.

16. Države pogodbenice ne smejo zavrniti prošnje za izročitev le zato, ker se šteje, da kaznivo dejanje vključuje tudi davčne zadeve.

17. Pred zavrnitvijo izročitve se zaprošena država pogodbenica po potrebi posvetuje z državo pogodbenico, ki prosi za izročitev, da ji da dovolj možnosti, da ji predstavi svoja mnenja in zagotovi podatke, pomembne za njene navedbe.

18. Države pogodbenice si prizadevajo skleniti dvostranske in večstranske sporazume ali dogovore, ki omogočajo izročitev ali izboljšajo njeno učinkovitost.

45. člen

Premestitev obsojencev

Vsaka država pogodbenica lahko preuči možnosti za sklenitev dvostranskih ali večstranskih sporazumov ali dogovorov o premestitvi oseb, obsojenih na zaporno kazen ali druge oblike odvzema prostosti zaradi kaznivih dejanj, določenih v skladu s to konvencijo, na svoje ozemlje, da bi tam lahko prestale kazen.

46. člen

Medsebojna pravna pomoč

1. Države pogodbenice si dajejo medsebojno pravno pomoč v čim večjem obsegu pri preiskavah, pregonih in sodnih postopkih v zvezi s kaznivimi dejanji, ki jih zajema ta konvencija.

2. Medsebojna pravna pomoč se daje v največjem obsegu skladno z ustreznimi zakoni, mednarodnimi pogodbami, sporazumi in dogovori zaprošene države pogodbenice za preiskave, pregon in sodne postopke v zvezi s kaznivimi dejanji, za katera bi pravna oseba lahko bila odgovorna skladno s 26. členom te konvencije v državi pogodbenici prosilki.

3. Medsebojna pravna pomoč, ki se daje skladno s tem členom, se lahko zahteva iz katerega koli navedenega razloga:

a) pridobivanje dokazov ali izjav oseb;

b) vročitev sodnih listin;

(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;

(j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention;

(k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.

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.

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 those 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. (a) A requested State Party, in responding to a request for assistance pursuant to this article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in article 1;

(b) States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action. Such assistance may be refused when requests involve matters of a de minimis nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;

c) preiskava in zaseg ter zamrznitev sredstev;

d) preučitev predmetov in ogled krajev;

e) zagotavljanje informacij, dokaznih predmetov in ocen izvedencev;

f) zagotavljanje izvirnikov ali overjenih kopij ustreznih dokumentov in listin skupaj z vladnimi, bančnimi, finančnimi, gospodarskimi ali poslovnimi listinami;

g) prepoznava ali odkrivanje premoženjske koristi, pridobljene s kaznivim dejanjem, premoženja, pripomočkov ali drugih predmetov za dokazne namene;

h) omogočanje prostovoljnega prihoda oseb na sodišče v državi pogodbenici prosilki;

i) katera koli druga vrsta pomoči, ki ni v nasprotju z notranjim pravom zaprošene države pogodbenice;

j) prepoznava, zamrznitev in odkrivanje izkupičkov premoženjske koristi, pridobljene s kaznivim dejanjem, skladno z določbami V. poglavja te konvencije;

k) vrnitev premoženja skladno z določbami V. poglavja te konvencije.

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 mu lahko pomagale pri izvajanju ali uspešnem dokončanju preiskav in kazenskih postopkov ali bi ta država pogodbenica lahko na njihovi podlagi sestavila zaprosilo skladno s to konvencijo.

5. Pošiljanje informacij po četrtem odstavku tega člena ne posega v preiskave in kazenske postopke v državi, v kateri so pristojni organi, ki preskrbijo 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 pogodbenica prejemnica pred razkritjem o tem obvesti državo pogodbenico pošiljateljico in se z njo posvetuje, če to zahteva. Če v izjemnem primeru ni mogoče predhodno obvestilo, mora država pogodbenica prejemnica brez odlašanja obvestiti državo pogodbenico 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 držav pogodbenic 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. (a) Če ni dvojne kaznivosti, zaprošena država pogodbenica v odgovor na zaprosilo za pomoč skladno s tem členom upošteva namene te konvencije iz 1. člena.

(b) Države pogodbenice lahko zavrnejo pomoč po tem členu, če ni dvojne kaznivosti. Vendar pa zaprošena država pogodbenica, če je skladno s temelji njene pravne ureditve, da pomoč, ki ne vključuje prisilnih ukrepov. Taka pomoč se lahko zavrne, če zaprosila vsebujejo zadeve zelo majhnega pomena ali zadeve, za katere je zaprošeno sodelovanje ali je pomoč mogoča po drugih določbah te konvencije.

(c) Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.

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.

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.

(c) Vsaka država pogodbenica lahko preuči možnosti za sprejetje ukrepov, potrebnih za to, da lahko zagotovi pomoč v večjem obsegu pomoči v skladu s tem členom, če ni identitete norme.

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 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 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 oseba premeščena, všteje v kazen, ki jo prestaja v državi, iz katere je bila premeščena.

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 pristojen 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 drugačno ureditvijo 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 vpliva na pravico države pogodbenice, da zahteva, da se ji v nujnih okoliščinah taka zaprosila in sporočila pošiljajo po diplomatski poti, če se države pogodbenice s tem strinjajo, pa po možnosti prek Mednarodne organizacije kriminalistične policije.

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.

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;

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. Država pogodbenica lahko, če je mogoče in 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) 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 requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in 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.

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.

(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, če je kaznivo dejanje povezano z davki.

23. Vsako zavrnitev medsebojne pravne pomoči je treba razložiti.

24. Zaprošena država pogodbenica čim prej izvede zaprosilo za medsebojno pravno pomoč in upošteva vse roke, ki jih predlaga država pogodbenica prosilka in so po možnosti razloženi že v zaprosilu. Država pogodbenica prosilka lahko na zaprošeno državo pogodbenico naslovi upravičene zahteve za informacije o stanju in napredku ukrepov, ki jih je ta sprejela, da ugodi njenemu zaprosilu. Zaprošena država pogodbenica odgovori državi pogodbenici prosilki na njene upravičene poizvedbe o stanju zaprosila in napredku pri njegovi obravnavi. Država pogodbenica prosilka takoj obvesti zaprošeno državo 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. 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. 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 47

Transfer of criminal proceedings

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with 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 48

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. States Parties shall, in particular, take 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, where appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;

(e) 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;

(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 States Parties may consider this Convention to be 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.

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

47. člen

Prenos kazenskih postopkov

Države pogodbenice preučijo možnost prenosa kazenskih postopkov iz ene države pogodbenice v drugo zaradi kazenskega pregona kaznivih dejanj, določenih v skladu s to konvencijo, da bi združile pregon, kadar je tak prenos v interesu učinkovitega delovanja pravosodja, posebno če je pristojnih več pogodbenic.

48. člen

Sodelovanje pri odkrivanju in 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 sprejme učinkovite ukrepe predvsem za:

(a) pospešitev in po potrebi 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) 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) pretok premoženjske koristi, pridobljene s kaznivim dejanjem, ali premoženja, ki izvira iz storitve kaznivega dejanja;

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

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

(d) izmenjavo podatkov z drugimi državami pogodbenicami o posebnih sredstvih in metodah, ki se uporabljajo za storitev kaznivih dejanj po tej konvenciji, vključno z uporabo lažne identitete, ponarejenih, prirejenih ali lažnih dokumentov ali drugih sredstev za prikrivanje dejavnosti;

(e) 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;

(f) 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. States Parties shall endeavour to cooperate within their means to respond to offences covered by this Convention committed through the use of modern technology.

Article 49

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 50

Special investigative techniques

1. In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.

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 or funds to continue intact or be removed or replaced in whole or in part.

Chapter V
Asset recovery

Article 51

General provision

The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard.

Article 52

Prevention and detection of transfers of proceeds of crime

1. Without prejudice to article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers,

3. Države pogodbenice si po svojih možnostih prizadevajo sodelovati pri obravnavanju kaznivih dejanj iz te konvencije, storjenih z uporabo sodobne tehnologije.

49. člen

Skupne preiskave

Države pogodbenice preučijo možnosti za sklepanje dvoali večstranskih sporazumov ali dogovorov, s katerimi lahko 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.

50. člen

Posebne preiskovalne metode

1. Za učinkovit boj proti korupciji vsaka država pogodbenica v obsegu, ki ga dovoljujejo temeljna načela njene notranjepravne ureditve, in v skladu s pogoji, ki jih predpisuje njeno notranje pravo, sprejme take ukrepe, kot so lahko potrebni, da se v okviru njenih sredstev njenim pristojnim organom omogoči na njenem ozemlju ustrezna uporaba nadzorovane pošiljke, in če se ji zdi primerno, druge posebne preiskovalne metode, kot so elektronske ali druge oblike nadzora in tajnih operacij ter omogoči dopustnost tako pridobljenih dokazov na sodišču.

2. Državam pogodbenicam se priporoča, da za sodelovanje na mednarodni ravni po potrebi sklenejo ustrezne dvoali večstranske sporazume ali dogovore o uporabi posebnih preiskovalnih metod zaradi preiskav kaznivih dejanj po tej konvenciji. Taki sporazumi ali dogovori se sklepajo ali izvajajo po načelu suverene enakosti držav in 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 dogovori glede izvajanja jurisdikcije držav pogodbenic.

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

V. poglavje
Vrnitev premoženja

51. člen

Splošna določba

Temeljno načelo te konvencije je vrnitev premoženja v skladu s tem poglavjem, države pogodbenice pa pri tem čim bolj sodelujejo in si pomagajo.

52. člen

Preprečevanje in odkrivanje prenosov premoženjske koristi, pridobljene s kaznivim dejanjem

1. Ne glede na 14. člen te konvencije vsaka država pogodbenica v skladu s svojim notranjim pravom sprejme potrebne ukrepe, da od finančnih ustanov pod njeno jurisdikcijo zahteva, da preverijo identiteto strank, sprejmejo primerne

to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer.

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

(a) Issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and record-keeping measures to take concerning such accounts; and

(b) Where appropriate, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify.

3. In the context of paragraph 2 (a) of this article, each State Party shall implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving the persons mentioned in paragraph 1 of this article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.

4. With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.

5. Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.

6. Each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance.

ukrepe za določitev identitete dejanskih upravičencev do uporabe sredstev z računov z visokimi zneski in poostreno nadzirajo račune, ki jih poskušajo odpreti ali jih imajo posamezniki, ki so jim ali so jim bile zaupane pomembne javne funkcije, njihovi družinski člani in tesni sodelavci ali nekdo v njihovem imenu. Tak poostren nadzor mora biti ustrezno zasnovan za odkrivanje sumljivih transakcij zaradi poročanja pristojnim organom in se ne sme razlagati tako, da finančne ustanove odvrača ali jim prepoveduje poslovanje z upravičenimi strankami.

2. Zaradi lažjega izvajanja ukrepov iz prejšnjega odstavka tega člena vsaka država pogodbenica v skladu z notranjim pravom in zaradi ustreznih pobud regionalnih, medregionalnih in večstranskih organizacij proti pranju denarja:

(a) izda smernice, ki se nanašajo na fizične ali pravne osebe, katerih račune bodo morale finančne ustanove pod njeno jurisdikcijo poostreno nadzirati, na vrste računov in transakcij, ki jim morajo nameniti posebno pozornost, in ukrepe, ki jih morajo sprejeti za odprtje takih računov, njihovo vodenje in evidenco vseh transakcij, in

(b) kadar je ustrezno, na zahtevo druge države pogodbenice ali na svojo pobudo finančnim ustanovam pod svojo pristojnostjo sporoči identiteto fizičnih ali pravnih oseb, katerih račune bodo morale finančne ustanove pod njeno jurisdikcijo poostreno nadzirati, poleg oseb, ki bi jih finančne ustanove kako drugače identificirale.

3. V okviru točke a prejšnjega odstavka vsaka država pogodbenica izvaja ukrepe, da zagotovi, da njene finančne ustanove določeno obdobje hranijo ustrezne evidence računov in transakcij, v katere so bile vključene osebe iz prvega odstavka tega člena, ki morajo vsebovati vsaj informacije o identiteti stranke, po možnosti pa tudi o dejanskem upravičencu.

4. Da bi preprečili in odkrivali prenose premoženjske koristi, pridobljene s kaznivim dejanjem, določenim v skladu s to konvencijo, vsaka država pogodbenica izvaja ustrezne in učinkovite ukrepe, da z organi, pristojnimi za ureditev in nadzor tega področja, prepreči ustanovitev bank, ki niso dejansko prisotne in niso povezane z zakonsko nadzorovano finančno skupino. Poleg tega lahko države pogodbenice preučijo možnost, da bi od svojih finančnih ustanov zahtevale, da zavrnejo sklenitev ali nadaljevanje korespondenčnega bančnega razmerja s takimi ustanovami in da se varujejo pred sklepanjem razmerij s tujimi finančnimi ustanovami, ki dovoljujejo, da njihove račune uporabljajo banke, ki niso dejansko prisotne in niso povezane z zakonsko nadzorovano finančno skupino.

5. Vsaka država pogodbenica v skladu s svojim notranjim pravom preuči možnost za vzpostavitev učinkovitih sistemov za razkritje finančnega stanja določenih javnih uslužbencev in predpiše ustrezne sankcije za neupoštevanje. Vsaka država pogodbenica preuči tudi možnost za sprejetje potrebnih ukrepov, da se njenim pristojnim organom dovoli izmenjava teh podatkov s pristojnimi organi v drugih državah pogodbenicah zaradi preiskave, zahtevka ali povračila premoženjske koristi, pridobljene s kaznivim dejanjem, določenim v skladu s to konvencijo.

6. Vsaka država pogodbenica v skladu s svojim notranjim pravom preuči možnost za sprejetje potrebnih ukrepov, kot so lahko potrebni, da od določenih javnih uslužbencev, ki imajo pravico v zvezi s finančnim računom v tuji državi, so njegovi podpisniki ali pa so zanj kako drugače pooblaščeni, zahteva, da o tem razmerju obvestijo pristojne organe in da v zvezi s takimi računi hranijo ustrezno evidenco. S takimi ukrepi se predvidijo tudi ustrezne sankcije za njihovo neupoštevanje.

Article 53

Measures for direct recovery of property

Each State Party shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

(b) Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and

(c) Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

53. člen

Ukrepi za neposredno vrnitev premoženja

Vsaka država pogodbenica v skladu s svojim notranjim pravom:

(a) sprejme potrebne ukrepe, da drugi državi pogodbenici omogoči začetek pravdnega postopka na njenih sodiščih zaradi ugotavljanja pravice do premoženja ali lastništva premoženja, pridobljenega s kaznivim dejanjem, določenim v skladu s to konvencijo;

(b) sprejme potrebne ukrepe, da svojim sodiščem omogoči, da tistim, ki so storili kaznivo dejanje, določeno v skladu s to konvencijo, naloži plačilo nadomestila ali odškodnine drugi državi pogodbenici, ki ji je bila s takim kaznivim dejanjem povzročena škoda, in

(c) sprejme potrebne ukrepe, da svojim sodiščem ali pristojnim organom omogoči, da pri odločanju o odvzemu priznajo drugo državo pogodbenico prosilko za zakonito lastnico premoženja, pridobljenega s kaznivim dejanjem, določenim v skladu s to konvencijo.

Article 54

Mechanisms for recovery of property through international cooperation in confiscation

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;

(b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and

(c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention**,** shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article;

(b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and

(c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

54. člen

Načini vračanja premoženja na podlagi mednarodnega sodelovanja pri odvzemu

1. Vsaka država pogodbenica v skladu s svojim notranjim pravom zaradi zagotavljanja medsebojne pravne pomoči po 55. členu te konvencije v zvezi s premoženjem, pridobljenim s kaznivim dejanjem, določenim v skladu s to konvencijo, ali uporabljenim zanj:

(a) sprejme potrebne ukrepe, da svojim pristojnim organom omogoči izvršitev odločbe o odvzemu, ki jo izda sodišče druge države pogodbenice;

(b) sprejme potrebne ukrepe, da svojim organom omogoči, da v okviru svoje pristojnosti odredijo odvzem premoženja tujega izvora pri odločanju o kaznivem dejanju pranja denarja ali drugem kaznivem dejanju iz njene pristojnosti ali z drugimi postopki po njenem notranjem pravu, in

(c) preuči možnosti za sprejetje potrebnih ukrepov, da se dovoli odvzem takega premoženja brez kazenske obsodbe, kadar se storilec kaznivega dejanja ne more preganjati zaradi smrti, pobega ali odsotnosti ali v drugih ustreznih primerih.

2. Vsaka država pogodbenica zaradi zagotavljanja medsebojne pravne pomoči na zaprosilo na podlagi drugega odstavka 55. člena te konvencije v skladu s svojim notranjim pravom:

(a) sprejme potrebne ukrepe, da svojim pristojnim organom omogoči zamrznitev ali zaseg premoženja na podlagi odločbe o zamrznitvi ali zasegu, ki jo izda sodišče ali pristojni organ države pogodbenice prosilke in je lahko utemeljena podlaga za prepričanje zaprošene države pogodbenice, da obstajajo zadostni razlogi za take ukrepe in da bo za premoženje pozneje odrejen odvzem za namene točke a prejšnjega odstavka;

(b) sprejme potrebne ukrepe, da svojim pristojnim organom omogoči zamrznitev ali zaseg premoženja na podlagi zaprosila, ki je za zaprošeno državo pogodbenico utemeljena podlaga za prepričanje, da obstajajo zadostni razlogi za take ukrepe in da bo za premoženje pozneje odrejen odvzem za namene točke a prejšnjega odstavka;

(c) preuči možnost za sprejetje dodatnih ukrepov, ki bodo njenim pristojnim organom omogočili zavarovanje premoženja za odvzem na podlagi prijetja v tujini ali kazenske obtožbe v zvezi s pridobitvijo takega premoženja.

Article 55

International cooperation for purposes of confiscation

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, 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 articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 31, 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 established in accordance with 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 31, 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 46 of this Convention are applicable, mutatis mutandis, to this article. In addition to the information specified in article 46, 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, including, to the extent possible, the location and, where relevant, the estimated value of the property 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, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;

(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 and, where available, a legally admissible copy of an order on which the request is based.

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 agreement or arrangement to which it may be bound in relation to the requesting State Party.

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.

55. člen

Mednarodno sodelovanje zaradi odvzema

1. Država pogodbenica, ki je od druge države pogodbenice z jurisdikcijo za kaznivo dejanje, določeno v skladu s to konvencijo, prejela zaprosilo za odvzem premoženjske koristi, pridobljene s kaznivim dejanjem, premoženja, opreme ali drugih predmetov iz prvega odstavka 31. člena te konvencije, ki so na njenem ozemlju, kolikor je mogoče glede na njeno notranjepravno ureditev:

(a) zaprosilo predloži svojim pristojnim organom zaradi izdaje odločbe o odvzemu in jo, če se taka odločba izda, izvrši ali

(b) svojim pristojnim organom zaradi njene izvršitve v zahtevanem obsegu predloži odločbo o odvzemu, ki jo izda sodišče na ozemlju države pogodbenice prosilke v skladu s prvim odstavkom 31. člena in točko a prvega odstavka 54. člena te konvencije, če se nanaša na premoženjsko korist, pridobljeno s kaznivim dejanjem, premoženje, opremo ali druge predmete iz prvega odstavka 31. člena, ki so na ozemlju zaprošene države pogodbenice.

2. Na podlagi zaprosila, ki ga predloži druga država pogodbenica z jurisdikcijo za kaznivo dejanje, določeno v skladu s to konvencijo, zaprošena država pogodbenica sprejme ukrepe, da ugotovi, izsledi in zamrzne ali zaseže premoženjsko korist, pridobljeno s kaznivim dejanjem, premoženje, opremo ali druge predmete iz prvega odstavka 31. člena te konvencije zaradi morebitne zaplembe, ki jo odredi država pogodbenica prosilka ali zaprošena država pogodbenica v skladu z zaprosilom iz prvega odstavka.

3. Za ta člen se smiselno uporabljajo določbe 46. člena te konvencije. Zaprosila na podlagi tega člena vsebujejo poleg podatkov iz petnajstega odstavka 46. člena še:

(a) pri zaprosilu iz točke a prvega odstavka tega člena opis premoženja, ki se odvzame, ki naj po možnosti vključuje kraj, kjer je premoženje, in če je ustrezno, ocenjeno vrednost premoženja ter navedbo dejstev, na katere se sklicuje država pogodbenica prosilka, ki zadostujejo, da zaprošena država pogodbenica lahko zaprosi za izdajo odločbe na podlagi svojega notranjega prava;

(b) pri zaprosilu iz točke b prvega odstavka tega člena, pravno sprejemljiv izvod odločbe o odvzemu, na kateri temelji zaprosilo države pogodbenice prosilke, navedbo dejstev in podatkov v obsegu, ki ga zahteva izvršitev odločbe, navedbo ukrepov, ki jih je sprejela država pogodbenica prosilka, da je ustrezno obvestila tretje dobroverne osebe in zagotovila predpisan postopek, ter izjavo, da je odločba o odvzemu pravnomočna;

(c) pri zaprosilu iz prejšnjega odstavka, navedbo dejstev, na katere se sklicuje država pogodbenica prosilka, in opis zahtevanih ukrepov ter pravno sprejemljiv izvod odločbe, na kateri temelji zaprosilo, če je mogoče.

4. Zaprošena država pogodbenica sprejme odločitve ali ukrepe iz prvega in drugega odstavka tega člena v skladu s svojim notranjim pravom in ob upoštevanju njegovih določb in svojih postopkovnih pravil ali dvo- ali večstranskega sporazuma ali dogovora, ki jo obvezuje do države pogodbenice prosilke.

5. Vsaka država pogodbenica generalnemu sekretarju Združenih narodov predloži izvod svojih zakonov in predpisov, s katerimi izvajajo ta člen, ter vse njihove nadaljnje spremembe ali njihov opis.

6. Če se država pogodbenica odloči, da bo sprejetje ukrepov iz prvega in drugega odstavka tega člena pogojevala z obstojem ustrezne mednarodne pogodbe, se ta konvencija šteje za potrebno in zadostno pogodbeno podlago.

7. Cooperation under this article may also be refused or provisional measures lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of a *de minimis* value.

8. Before lifting any provisional measure taken pursuant to this article, the requested State Party shall, wherever possible, give the requesting State Party an opportunity to present its reasons in favour of continuing the measure.

9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

Article 56

Special cooperation

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.

Article 57

Return and disposal of assets

1. Property confiscated by a State Party pursuant to article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law.

2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

(a) In the case of embezzlement of public funds or of laundering of embezzled public funds as referred to in articles 17 and 23 of this Convention, when confiscation was executed in accordance with article 55 and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party;

(b) In the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with article 55 of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property;

(c) In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime.

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.

7. Sodelovanje po tem členu se lahko tudi zavrne, začasni ukrepi pa odpravijo, če zaprošena država pogodbenica ne prejme pravočasno zadovoljivih dokazov ali če je vrednost premoženja majhna.

8. Pred odpravo začasnega ukrepa, sprejetega na podlagi tega člena, zaprošena država pogodbenica po možnosti omogoči državi pogodbenici, da predstavi razloge za ohranitev ukrepa.

9. Nobena določba tega člena se ne razlaga kot poseg v pravice dobrovernih tretjih oseb.

56. člen

Posebno sodelovanje

Vsaka država pogodbenica si ne glede na svoje notranje pravo prizadeva za sprejetje ukrepov, ki ji ne glede na njene preiskave, kazenske pregone ali sodne postopke omogočijo pošiljanje podatkov o premoženjski koristi, pridobljeni s kaznivim dejanjem, določenim v skladu s to konvencijo, drugi državi pogodbenici brez predhodnega zaprosila, če meni, da bi razkritje takih podatkov lahko državi pogodbenici prejemnici pomagalo pri uvedbi ali izvedbi preiskav, kazenskih pregonov ali sodnih postopkov ali pa bi lahko bilo podlaga za zaprosilo te države pogodbenice po tem poglavju konvencije.

57. člen

Vrnitev premoženja in razpolaganje z njim

1. Država pogodbenica na podlagi tretjega odstavka tega člena v skladu z določbami te konvencije in svojim notranjim pravom razpolaga s premoženjem, ki ga je odvzela na podlagi 31. ali 55. člena te konvencije, vključno z vrnitvijo njenim prejšnjim zakonitim lastnikom.

2. Vsaka država pogodbenica v skladu s temeljnimi načeli svojega notranjega prava sprejme zakonodajne in druge potrebne ukrepe, da se njenim pristojnim organom omogoči, da na zahtevo druge države pogodbenice v skladu s to konvencijo vrnejo odvzeto premoženje ob upoštevanju pravice tretjih dobrovernih oseb.

3. V skladu s 46. in 55. členom te konvencije ter prvim in drugim odstavkom tega člena zaprošena država pogodbenica:

(a) vrne odvzeto premoženje državi pogodbenici prosilki pri poneverbi javnih sredstev ali pranju poneverjenih javnih sredstev, kakor je navedeno v 17. in 23. členu te konvencije, če gre za odvzem v skladu s 55. členom in na podlagi pravnomočne sodbe v državi pogodbenici prosilki, kar je zahteva, ki se ji zaprošena država pogodbenica lahko odpove;

(b) vrne odvzeto premoženje državi pogodbenici prosilki pri premoženjski koristi, pridobljeni z drugim kaznivim dejanjem iz te konvencije, če gre za odvzem v skladu z njenim 55. členom in na podlagi pravnomočne sodbe v državi pogodbenici prosilki, kar je zahteva, ki se ji zaprošena država pogodbenica lahko odpove, če država pogodbenica prosilka zaprošeni državi pogodbenici utemeljeno dokaže svoje prejšnje lastništvo takega odvzetega premoženja ali če zaprošena država pogodbenica državi pogodbenici prosilki prizna škodo kot podlago za vrnitev odvzetega premoženja;

(c) v vseh drugih primerih prednostno preuči možnost za vrnitev odvzetega premoženja državi pogodbenici prosilki, vrnitev takega premoženja njegovim prejšnjim zakonitim lastnikom ali za povrnitev škode oškodovancem zaradi kaznivega dejanja.

4. Zaprošena država pogodbenica lahko, če je ustrezno, odšteje razumne stroške, nastale pri preiskavah, kazenskih pregonih ali sodnih postopkih, ki so privedli do vrnitve odvzetega premoženja v skladu s tem členom ali razpolaganja z njim, razen če države pogodbenice ne odločijo drugače.

5. Where appropriate, States Parties may also give special consideration to concluding agreements or mutually acceptable arrangements, on a case-by-case basis, for the final disposal of confiscated property.

Article 58

Financial intelligence unit

States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with this Convention and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.

Article 59

Bilateral and multilateral agreements and arrangements

States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this chapter of the Convention.

Chapter VI
Technical assistance and information exchange

Article 60

Training and technical assistance

1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its personnel responsible for preventing and combating corruption. Such training programmes could deal, inter alia, with the following areas:

(a) Effective measures to prevent, detect, investigate, punish and control corruption, including the use of evidence-gathering and investigative methods;

(b) Building capacity in the development and planning of strategic anticorruption policy;

(c) Training competent authorities in the preparation of requests for mutual legal assistance that meet the requirements of this Convention;

(d) Evaluation and strengthening of institutions, public service management and the management of public finances, including public procurement, and the private sector;

(e) Preventing and combating the transfer of proceeds of offences established in accordance with this Convention and recovering such proceeds;

(f) Detecting and freezing of the transfer of proceeds of offences established in accordance with this Convention;

(g) Surveillance of the movement of proceeds of offences established in accordance with this Convention and of the methods used to transfer, conceal or disguise such proceeds;

(h) Appropriate and efficient legal and administrative mechanisms and methods for facilitating the return of proceeds of offences established in accordance with this Convention;

(i) Methods used in protecting victims and witnesses who cooperate with judicial authorities; and

(j) Training in national and international regulations and in languages.

2. States Parties shall, according to their capacity, consider affording one another the widest measure of technical assistance, especially for the benefit of developing countries, in their respective plans and programmes to combat corruption, including material support and training in the areas referred to in paragraph 1 of this article, and training and assistance and the mutual exchange of relevant experience and specialized knowledge, which will facilitate international cooperation between States Parties in the areas of extradition and mutual legal assistance.

5. Države pogodbenice lahko v posameznih primerih, če je ustrezno, posebej preučijo možnosti za sklenitev sporazumov ali medsebojno sprejemljivih dogovorov za dokončno razpolaganje z odvzetim premoženjem.

58. člen

Finančna obveščevalna enota

Države pogodbenice medsebojno sodelujejo pri preprečevanju prenosa premoženjske koristi, pridobljene s kaznivimi dejanji, določenimi v skladu s to konvencijo, in boju proti njemu, ter pri krepitvi načinov in sredstev za povračilo take premoženjske koristi, ter v ta namen preučijo možnost za ustanovitev finančne obveščevalne enote, pristojne za prejemanje, analiziranje in pošiljanje poročil pristojnim organom o sumljivih finančnih transakcijah.

59. člen

Dvo- in večstranski sporazumi in dogovori

Države pogodbenice preučijo možnost za sklenitev dvo- ali večstranskih sporazumov ali dogovorov za povečanje učinkovitosti mednarodnega sodelovanja po tem poglavju konvencije.

VI. poglavje
Strokovna pomoč in izmenjava informacij

60. člen

Usposabljanje in strokovna pomoč

1. Vsaka država pogodbenica, če je potrebno, uvede, razvije ali izboljša posebne programe usposabljanja za osebje, odgovorno za preprečevanje korupcije in boj proti njej. Taki programi usposabljanja bi lahko med drugim obravnavali:

(a) učinkovite ukrepe za preprečevanje, odkrivanje, preiskovanje, kaznovanje in nadzor korupcije, vključno z uporabo metod zbiranja dokazov in preiskovanja;

(b) usposabljanje za razvoj in načrtovanje strateške protikorupcijske politike;

(c) usposabljanje pristojnih organov za pripravo zaprosil za medsebojno pravno pomoč, ki ustrezajo zahtevam te konvencije;

(d) oceno in krepitev institucij, upravljanja javnih služb in javnih financ, vključno z javnimi naročili, ter zasebnega sektorja;

(e) preprečevanje prenosa premoženjske koristi, pridobljene s kaznivimi dejanji, določenimi v skladu s to konvencijo, in boj proti njemu ter povračilo takih premoženjskih koristi;

(f) odkrivanje in zamrznitev prenosa premoženjske koristi, pridobljene s kaznivimi dejanji, določenimi v skladu s to konvencijo;

(g) nadzorovanje pretoka premoženjske koristi, pridobljene s kaznivimi dejanji, določenimi v skladu s to konvencijo, in metod, uporabljenih za prenos, zatajitev ali prikrivanje take premoženjske koristi;

(h) ustrezne in učinkovite pravne in upravne načine ter metode za pospešitev vrnitve premoženjske koristi, pridobljene s kaznivimi dejanji, določenimi v skladu s to konvencijo;

(i) metode za zaščito oškodovancev in prič, ki sodelujejo s pravosodnimi organi, in

(j) usposabljanje na področju notranjih in mednarodnih ureditev in jezikov.

2. Države pogodbenice v svojih vsakokratnih načrtih in programih za boj proti korupciji preučijo, kako bi si skladno s svojimi zmožnostmi čim bolj strokovno pomagale, zlasti v korist držav v razvoju, vključno z materialno pomočjo in usposabljanjem na področjih iz prejšnjega odstavka ter usposabljanjem, pomočjo in medsebojno izmenjavo ustreznih izkušenj in strokovnega znanja, kar bo pospešilo mednarodno sodelovanje med državami pogodbenicami pri izročitvi in medsebojni pravni pomoči.

3. States Parties shall strengthen, to the extent necessary, efforts to maximize operational and training activities in international and regional organizations and in the framework of relevant bilateral and multilateral agreements or arrangements.

4. States Parties shall consider assisting one another, upon request, in conducting evaluations, studies and research relating to the types, causes, effects and costs of corruption in their respective countries, with a view to developing, with the participation of competent authorities and society, strategies and action plans to combat corruption.

5. In order to facilitate the recovery of proceeds of offences established in accordance with this Convention, States Parties may cooperate in providing each other with the names of experts who could assist in achieving that objective.

6. States Parties shall consider using subregional, regional and international conferences and seminars to promote cooperation and technical assistance and to stimulate discussion on problems of mutual concern, including the special problems and needs of developing countries and countries with economies in transition.

7. States Parties shall consider establishing voluntary mechanisms with a view to contributing financially to the efforts of developing countries and countries with economies in transition to apply this Convention through technical assistance programmes and projects.

8. Each State Party shall consider making voluntary contributions to the United Nations Office on Drugs and Crime for the purpose of fostering, through the Office, programmes and projects in developing countries with a view to implementing this Convention.

Article 61

Collection, exchange and analysis of information on corruption

1. Each State Party shall consider analysing, in consultation with experts, trends in corruption in its territory, as well as the circumstances in which corruption offences are committed.

2. States Parties shall consider developing and sharing with each other and through international and regional organizations statistics, analytical expertise concerning corruption and information with a view to developing, insofar as possible, common definitions, standards and methodologies, as well as information on best practices to prevent and combat corruption.

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

Article 62

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 corruption 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 corruption;

(b) To enhance financial and material assistance to support the efforts of developing countries to prevent and fight corruption 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

3. Države pogodbenice po potrebi okrepijo prizadevanja za kar največje povečanje delovanja in usposabljanja v mednarodnih in regionalnih organizacijah ter z ustreznimi dvo- in večstranskimi sporazumi ali dogovori.

4. Države pogodbenice preučijo, kako bi si na prošnjo pomagale pri ocenjevanju, študijah in raziskavah, ki se nanašajo na vrste, vzroke, posledice in stroške korupcije v teh državah, da bi ob sodelovanju pristojnih organov in družbe razvile strategije in akcijske načrte za boj proti korupciji.

5. Države pogodbenice lahko sodelujejo pri izmenjavi imen strokovnjakov, ki lahko pomagajo pri hitrejšem vračanju premoženjske koristi, pridobljene s kaznivimi dejanji, določenimi v skladu s to konvencijo.

6. Države pogodbenice preučijo možnost za uporabo podregionalnih, regionalnih in mednarodnih konferenc in seminarjev za spodbujanje sodelovanja in strokovne pomoči ter razprave o skupnih vprašanjih, vključno s posebnimi težavami in potrebami držav v razvoju in držav z gospodarstvom v prehodu.

7. Države pogodbenice preučijo možnost za vzpostavitev prostovoljnih mehanizmov, da bi s programi in projekti strokovne pomoči finančno prispevale k prizadevanjem držav v razvoju in držav z gospodarstvom v prehodu, da bodo izvajale to konvencijo.

8. Vsaka država pogodbenica preuči možnost za prostovoljne prispevke Uradu Združenih narodov za droge in kriminal, da bi z njegovo pomočjo spodbujale programe in projekte v državah v razvoju zaradi izvajanja te konvencije.

61. člen

Zbiranje, izmenjava in analiza informacij o korupciji

1. Vsaka država pogodbenica v posvetovanju s strokovnjaki preuči možnost za analiziranje dogajanj na področju korupcije na svojem ozemlju ter okoliščin, v katerih prihaja do korupcijskih kaznivih dejanj.

2. Države pogodbenice preučijo možnost, da med seboj in prek mednarodnih in regionalnih organizacij razvijajo in izmenjavajo statistične podatke, analitično strokovno znanje o korupciji in informacije, da bi po možnosti razvile skupne opredelitve, standarde in metodologije, ter tudi informacije o najboljših praksah za preprečevanje korupcije in boj proti njej.

3. Vsaka država pogodbenica preuči možnost za spremljanje svojih usmeritev in dejanskih ukrepov za boj proti korupciji ter presojo njihove uspešnosti in učinkovitosti.

62. člen

Drugi ukrepi: izvajanje konvencije s pomočjo gospodarskega razvoja in strokovne pomoči

1. Države pogodbenice sprejmejo ukrepe, ki z mednarodnim sodelovanjem čim bolj prispevajo k najboljšemu izvajanju te konvencije, ob upoštevanju negativnih učinkov, ki jih ima korupcija na družbo na splošno, zlasti na trajnostni razvoj.

2. Države pogodbenice si kar najbolj z medsebojnim usklajevanjem ter z usklajevanjem z mednarodnimi in regionalnimi organizacijami dejansko prizadevajo:

(a) na različnih ravneh povečati svoje sodelovanje z državami v razvoju, da bi okrepile zmožnost teh držav za preprečevanje korupcije in boj proti njej;

(b) povečati finančno in materialno pomoč v podporo prizadevanjem držav v razvoju za učinkovito preprečevanje korupcije in boj proti njej ter v pomoč tem državam pri uspešnem izvajanju konvencije;

(c) zagotoviti strokovno pomoč državam v razvoju in državam z gospodarstvom v prehodu, da bi jim pomagale izpolniti vse, kar je potrebno za izvajanje te konvencije. V ta namen si

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 that 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 corruption.

države pogodbenice prizadevajo ustrezno in redno prostovoljno prispevati na račun, ki je v sistemu financiranja Združenih narodov temu posebej namenjen. Države pogodbenice lahko v skladu s svojim notranjim pravom in določbami te konvencije tudi posebej preučijo možnost, da bi na ta račun prispevale odstotek denarja ali ustrezne vrednosti premoženjske koristi, pridobljene s kaznivim dejanjem, ali premoženja, odvzetega v skladu z določbami te konvencije;

(d) spodbujati in prepričevati druge države oziroma finančne ustanove, da se jim pridružijo pri prizadevanjih v skladu s tem členom, zlasti z zagotavljanjem več programov usposabljanja in sodobne opreme državam v razvoju, da bi jim pomagali pri uresničevanju ciljev te konvencije.

3. Ti ukrepi po možnosti ne vplivajo na obstoječe zaveze o tuji pomoči ali na druge dogovore o finančnem sodelovanju na dvostranski, regionalni ali mednarodni ravni.

4. Države pogodbenice lahko sklenejo dvo- ali večstranske sporazume oziroma dogovore o materialni in logistični pomoči ob upoštevanju finančnih dogovorov, potrebnih za učinkovito mednarodno sodelovanje, predvideno s to konvencijo, ter za preprečevanje, odkrivanje in nadzor korupcije.

Chapter VII
Mechanisms for implementation

Article 63

Conference of the States Parties to the Convention

1. A Conference of the States Parties to the Convention is hereby established to improve the capacity of and cooperation between States Parties to achieve the objectives set forth in this Convention and to promote and review its implementation.

2. The Secretary-General of the United Nations shall convene the Conference of the States Parties not later than one year following the entry into force of this Convention. Thereafter, regular meetings of the Conference of the States Parties shall be held in accordance with the rules of procedure adopted by the Conference.

3. The Conference of the States Parties shall adopt rules of procedure and rules governing the functioning of the activities set forth in this article, including rules concerning the admission and participation of observers, and the payment of expenses incurred in carrying out those activities.

4. The Conference of the States Parties shall agree upon activities, procedures and methods of work to achieve the objectives set forth in paragraph 1 of this article, including:

(a) Facilitating activities by States Parties under articles 60 and 62 and chapters II to V 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 corruption and on successful practices for preventing and combating it and for the return of proceeds of crime, through, inter alia, the publication of relevant information as mentioned in this article;

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

(d) Making appropriate use of relevant information produced by other international and regional mechanisms for combating and preventing corruption in order to avoid unnecessary duplication of work;

(e) Reviewing periodically the implementation of this Convention by its States Parties;

(f) Making recommendations to improve this Convention and its implementation;

(g) Taking note of the technical assistance requirements of States Parties with regard to the implementation of this Convention and recommending any action it may deem necessary in that respect.

VII. poglavje
Načini izvajanja

63. člen

Konferenca držav pogodbenic konvencije

1. Ustanovi se konferenca držav pogodbenic konvencije, da bi izboljšali usposobljenost držav pogodbenic in sodelovanje med njimi zaradi uresničevanja ciljev iz te konvencije in da se spodbuja in pregleduje njeno izvajanje.

2. Generalni sekretar Združenih narodov skliče konferenco držav pogodbenic najpozneje eno leto po začetku veljavnosti te konvencije. Nato se organizirajo redni sestanki konference držav pogodbenic v skladu s poslovnikom, ki ga sprejme konferenca.

3. Konferenca držav pogodbenic sprejme poslovnik in pravila, ki urejajo dejavnosti iz tega člena, vključno s pravili o sprejemu in sodelovanju opazovalcev, ter plačila stroškov, nastalih pri opravljanju teh dejavnosti.

4. Konferenca držav pogodbenic se dogovori o dejavnostih, postopkih in načinih dela za uresničevanje ciljev iz prvega odstavka tega člena, vključno s:

(a) spodbujanjem dejavnosti držav pogodbenic po 60. in 62. členu ter II. do V. poglavju te konvencije, vključno s spodbujanjem zbiranja prostovoljnih prispevkov;

(b) spodbujanjem izmenjave informacij med državami pogodbenicami o značilnostih in dogajanjih na področju korupcije ter o uspešni praksi za preprečevanje korupcije in boj proti njej ter za vrnitev premoženjske koristi, pridobljene s kaznivim dejanjem, med drugim z objavljanjem ustreznih informacij, kot je omenjeno v tem členu;

(c) sodelovanjem z ustreznimi mednarodnimi in regionalnimi organizacijami in mehanizmi ter nevladnimi organizacijami;

(d) primerno uporabo pomembnih informacij, ki jih zagotovijo drugi mednarodni in regionalni mehanizmi za boj proti korupciji in njeno preprečevanje, da bi se izognili nepotrebnemu podvajanju dela;

(e) rednim pregledovanjem, kako države pogodbenice izvajajo to konvencijo;

(f) dajanjem priporočil, da bi izboljšali to konvencijo in njeno izvajanje;

(g) upoštevanjem zahtev držav pogodbenic v zvezi s strokovno pomočjo glede izvajanja te konvencije in priporočanjem ukrepanja, za katero konferenca meni, da je potrebno.

5. For the purpose of paragraph 4 of this article, the Conference of the States 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 States Parties.

6. Each State Party shall provide the Conference of the States Parties with information on its programmes, plans and practices, as well as on legislative and administrative measures to implement this Convention, as required by the Conference of the States Parties. The Conference of the States Parties shall examine the most effective way of receiving and acting upon information, including, inter alia, information received from States Parties and from competent international organizations. Inputs received from relevant non-governmental organizations duly accredited in accordance with procedures to be decided upon by the Conference of the States Parties may also be considered.

7. Pursuant to paragraphs 4 to 6 of this article, the Conference of the States Parties shall establish, if it deems it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention.

Article 64

Secretariat

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

2. The secretariat shall:

(a) Assist the Conference of the States Parties in carrying out the activities set forth in article 63 of this Convention and make arrangements and provide the necessary services for the sessions of the Conference of the States Parties;

(b) Upon request, assist States Parties in providing information to the Conference of the States Parties as envisaged in article 63, paragraphs 5 and 6, of this Convention; and

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

Chapter VIII
Final provisions

Article 65

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

Article 66

Settlement of disputes

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

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.

5. Konferenca držav pogodbenic se za izvajanje prejšnjega odstavka ustrezno seznani z ukrepi, ki so jih sprejele države pogodbenice za izvajanje te konvencije, ter s težavami, na katere so naletele, in sicer s pomočjo informacij, ki so jih zagotovile države pogodbenice, in dopolnilnih načinov pregledovanja, ki jih lahko določi konferenca držav pogodbenic.

6. Vsaka država pogodbenica zagotovi konferenci držav pogodbenic informacije o svojih programih, načrtih in praksi ter zakonodajnih in upravnih ukrepih za izvajanje te konvencije, ki jih zahteva konferenca držav pogodbenic. Konferenca držav pogodbenic preuči najučinkovitejši način prejemanja informacij in ravnanja na njihovi podlagi, kar med drugim vključuje informacije, ki jih prejme od držav pogodbenic in pristojnih mednarodnih organizacij. Upoštevajo se lahko tudi prispevki ustreznih nevladnih organizacij, ki so pravilno akreditirane v skladu s postopki, ki jih določi konferenca držav pogodbenic.

7. V skladu s četrtim do šestim odstavkom tega člena konferenca držav pogodbenic, če meni, da je to potrebno, ustanovi kakršen koli primeren organ ali telo za učinkovito izvajanje konvencije.

64. člen

Sekretariat

1. Generalni sekretar Združenih narodov konferenci držav pogodbenic konvencije zagotovi potrebne storitve sekretariata.

2. Sekretariat:

(a) pomaga konferenci držav pogodbenic pri izvajanju dejavnosti iz 63. člena te konvencije ter ureja in zagotavlja potrebne storitve za zasedanja konference držav pogodbenic;

(b) na prošnjo pomaga državam pogodbenicam pri zagotavljanju informacij konferenci držav pogodbenic, kakor je predvideno v petem in šestem odstavku 63. člena te konvencije, in

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

VIII. poglavje
Končne določbe

65. člen

Izvajanje konvencije

1. Vsaka država pogodbenica v skladu s temeljnimi načeli svojega notranjega prava sprejme potrebne ukrepe skupaj z zakonodajnimi in upravnimi za zagotovitev izpolnjevanja svojih obveznosti po tej konvenciji.

2. Vsaka država pogodbenica lahko za preprečevanje korupcije in boj proti njej sprejme strožje ali ostrejše ukrepe, kakor so določeni v tej konvenciji.

66. člen

Reševanje sporov

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

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 prejšnjem odstavku. Drugi odstavek tega člena drugih držav pogodbenic v odnosu do države pogodbenice, ki je dala tak pridržek, ne zavezuje.

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 67

Signature, ratification, acceptance, approval and accession

1. This Convention shall be open to all States for signature from 9 to 11 December 2003 in Merida, Mexico, and thereafter at United Nations Headquarters in New York until 9 December 2005.

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 68

Entry into force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the thirtieth 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 thirtieth 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 or on the date this Convention enters into force pursuant to paragraph 1 of this article, whichever is later.

Article 69

Amendment

1. After the expiry of five years from the entry into force of this Convention, a State Party may propose an amendment and transmit it to the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the States Parties to the Convention for the purpose of considering and deciding on the proposal. The Conference of the States 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 States Parties.

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

67. člen

Podpis, ratifikacija, sprejetje, odobritev in pristop

1. Konvencija je vsem državam na voljo za podpis od 9. do 11. decembra 2003 v Meridi v Mehiki in nato do 9. decembra 2005 na sedežu Združenih narodov v New Yorku.

2. Konvencija je na voljo za podpis tudi regionalnim organizacijam za gospodarsko povezovanje, če je vsaj ena država članica te organizacije podpisala to konvencijo v skladu s prejšnjim odstavkom.

3. Konvencijo je treba ratificirati, sprejeti ali odobriti. Listine o ratifikaciji, sprejetju ali odobritvi se deponirajo pri generalnem sekretarju Združenih narodov. Regionalna organizacija za gospodarsko povezovanje 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 njene pristojnosti za zadeve, ki jih ureja ta konvencija. Ta organizacija obvesti depozitarja tudi o vsaki pomembni spremembi obsega svojih pristojnosti.

4. H konvenciji lahko pristopi katera koli država ali regionalna organizacija za gospodarsko povezovanje, katere vsaj ena država članica je pogodbenica te konvencije. Listine o pristopu se deponirajo pri generalnem sekretarju Združenih narodov. Regionalna organizacija za gospodarsko povezovanje 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.

68. člen

Začetek veljavnosti

1. Konvencija začne veljati devetdeseti dan po datumu deponiranja tridesete listine o ratifikaciji, sprejetju, odobritvi ali pristopu. Po tem odstavku se listina, ki jo deponira regionalna organizacija za gospodarsko povezovanje, ne šteje za dodatno k tistim, ki so jih deponirale države članice te organizacije.

2. Za državo ali regionalno organizacijo za gospodarsko povezovanje, ki ratificira, sprejme, odobri to konvencijo ali k njej pristopi po deponiranju tridesete listine, začne ta konvencija veljati trideseti dan po datumu deponiranja ustrezne listine te države ali organizacije ali z dnem, ko ta konvencija začne veljati v skladu s prejšnjim odstavkom, kar je pozneje.

69. člen

Sprememba

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

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.

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

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 take spremembe pri generalnem sekretarju Združenih narodov.

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

Article 70

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.

70. člen

Odpoved

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

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

Article 71

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.

71. 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.

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

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

3. člen

Republika Slovenija ob deponiranju svoje listine o ratifikaciji Konvencije Združenih narodov proti korupciji generalnemu sekretarju Združenih narodov sporoči naslednjo izjavo:

»Skladno s točko a) šestega odstavka 44. člena bo Republika Slovenija konvencijo uporabljala kot pravno podlago za sodelovanje z drugimi državami pogodbenicami te konvencije pri izročitvi.

Skladno s trinajstim odstavkom 46. člena konvencije je v Republiki Sloveniji osrednji organ, odgovoren in pristojen za sprejem zaprosil za medsebojno pravno pomoč in njihovo izvedbo ali pošiljanje pristojnim organom v izvedbo, Ministrstvo za pravosodje.

Skladno s štirinajstim odstavkom 46. člena konvencije so jeziki, sprejemljivi za Republiko Slovenijo, slovenski, angleški in francoski jezik.«

4. člen

Za izvajanje te konvencije skrbita Ministrstvo za pravosodje in Vrhovno državno tožilstvo Republike Slovenije.

5. člen

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

Št. 212-05/07-60/2
Ljubljana, dne 6. februarja 2008
EPA 1831-IV

Predsednik
Državnega zbora
Republike Slovenije
France Cukjati, dr. med., l.r.

29. Uredba o ratifikaciji Sporazuma o varovanju tajnih podatkov in materiala na področju obrambnega sodelovanja med Ministrstvom za obrambo Republike Slovenije in Ministrstvom za obrambo Države Izrael

Na podlagi petega odstavka 75. člena Zakona o zunanjih zadevah (Uradni list RS, št. 113/03 – uradno prečiščeno besedilo in 20/06 – ZNOMCMO) izdaja Vlada Republike Slovenije

U R E D B O
O RATIFIKACIJI SPORAZUMA O VAROVANJU TAJNIH PODATKOV IN MATERIALA NA PODROČJU OBRAMBNEGA SODELOVANJA MED MINISTRSTVOM ZA OBRAMBO REPUBLIKE SLOVENIJE IN MINISTRSTVOM ZA OBRAMBO DRŽAVE IZRAEL

1. člen

Ratificira se Sporazum o varovanju tajnih podatkov in materiala na področju obrambnega sodelovanja med Ministrstvom za obrambo Republike Slovenije in Ministrstvom za obrambo Države Izrael, podpisan v Tel Avivu 18. aprila 2007.

2. člen

Besedilo sporazuma se v izvirniku v angleškem jeziku in v prevodu v slovenskem jeziku glasi:

A G R E E M E N T
ON PROTECTION OF CLASSIFIED INFORMATION AND MATERIAL IN THE FIELD OF DEFENCE COOPERATION BETWEEN THE MINISTRY OF DEFENCE OF THE REPUBLIC OF SLOVENIA AND THE MINISTRY OF DEFENCE OF THE STATE OF ISRAEL

The Ministry of Defence of the Republic of Slovenia and the Ministry of Defence of the State of Israel (hereinafter referred to as the Parties)

Recognising their intention to participate in joint projects in the field of defence and military affairs;

Wishing to safeguard the secrecy of defence and military projects, and classified material and classified information exchanged under the envisaged cooperation in the field of defence cooperation;

Considering that the agreement on protection of classified information in the field of defence cooperation (hereinafter referred to as the Agreement) is in their mutual interest;

The Parties are allowed to exchange the classified material and classified information, which were produced in between them, only;

Desiring to define the terms and conditions governed by this Agreement;

HAVE AGREED AS FOLLOWS:

ARTICLE I: ADOPTION OF PREAMBLE

The Preamble forms an integral part of this Agreement and shall be binding on both Parties.

ARTICLE II: DEFINITIONS

1. For the purposes of this Agreement the term “classified material and classified information” shall mean any material or information which is exchanged under the envisaged cooperation in the field of defence cooperation, – in the interests of the national security of the releasing Party and in accordance with laws and regulations in force – requires protection against unauthorized disclosure, and which was classified by the Competent Authorities in accordance with Article IV of the present Agreement.

2. The term “information” shall comprise classified information in any form, including written, oral or visual forms.

S P O R A Z U M
O VAROVANJU TAJNIH PODATKOV IN MATERIALA NA PODROČJU OBRAMBNEGA SODELOVANJA MED MINISTRSTVOM ZA OBRAMBO REPUBLIKE SLOVENIJE IN MINISTRSTVOM ZA OBRAMBO DRŽAVE IZRAEL

Ministrstvo za obrambo Republike Slovenije in Ministrstvo za obrambo Države Izrael (v nadaljnjem besedilu: pogodbenika) sta se

z namenom, da sodelujeta pri skupnih projektih na obrambnem in vojaškem področju,

v želji, da varujeta tajnost obrambnih in vojaških projektov, tajni material ter tajne podatke, ki jih izmenjata pri predvidenem sodelovanju na obrambnem področju,

ob upoštevanju, da je sporazum o varovanju tajnih podatkov na področju obrambnega sodelovanja (v nadaljnjem besedilu: sporazum) v obojestranskem interesu,

ob upoštevanju, da si pogodbenika lahko izmenjavata le svoj lastni tajni material in tajne podatke,

v želji, da določita pogoje iz tega sporazuma,

DOGOVORILA:

I. ČLEN: SPREJETJE PREAMBULE

Preambula je sestavni del tega sporazuma in je za pogodbenika zavezujoča.

II. ČLEN: POMEN IZRAZOV

1. V tem sporazumu izraz »tajni material in tajni podatki« pomeni material ali podatke, ki so izmenjani pri predvidenem sodelovanju na obrambnem področju in jih je treba zaradi nacionalne varnosti pogodbenika pošiljatelja ter skladno z veljavnimi zakoni in predpisi varovati pred nepooblaščenim razkritjem, in so jih pristojni organi označili skladno s IV. členom tega sporazuma.

2. Izraz »podatki« vključuje tajne podatke v kateri koli obliki, vključno s pisno, ustno ali slikovno.

3. The term “material” shall mean a document, product or substance on which or in which information may be recorded or which may contain or comprise information irrespective of its physical character, and shall include but is not limited to: written documents, hardware, equipment, machinery, devices, samples, photos, audio records, reproductions, maps or letters, and other products, substances or items which may contain information.

ARTICLE III: SECURITY CLASSIFICATION AND DISCLOSURE

1. The Parties may not disclose classified material and classified information covered by this Agreement and acquired within the framework of defence cooperation and joint projects to any third party, country or individual without prior consent of the originating Party.

2. In accordance with their national laws, regulations and practices, the Parties shall implement appropriate measures for the protection of classified material and information. A Party shall afford to all classified material and classified information a degree of protection that is equal to the protection provided to classified material and information originated by it.

3. Access to classified material and information shall be limited to those requiring access for the purposes of performing their duties and those who were authorized by the Competent Authority and have under internal legislation access to classified information. Only persons with appropriate security clearance shall have access to information classified CONFIDENTIAL and above.

ARTICLE IV: PROJECT CLASSIFICATION

1. Having knowledge of security measures under applicable internal laws and regulations, a Party shall protect classified material and classified information exchanged under this Agreement and shall adopt equivalents of security classifications listed in the table below:

REPUBLIC OF SLOVENIA	ENGLISH EQUIVALENT	THE STATE OF ISRAEL
STROGO TAJNO	TOP SECRET	SODI BEYOTER
TAJNO	SECRET	SODI
ZAUPNO	CONFIDENTIAL	SHAMUR
INTERNO	RESTRICTED	SHAMUR

2. Upon receipt of classified material and classified information a Party shall record and mark this material and information with its own security classification marking according to the equivalents listed in the above table. The Originating Party shall inform the Receiving Party of any changes in classification.

3. Classification guidelines for individual projects shall be coordinated between the contact persons of both Parties as specified in Article VIII.

ARTICLE V: VISITORS AND SECURITY CLEARANCE

1. Access to classified material and information and to premises where classified projects under this Agreement are carried out shall be provided by one Party to a person of the other Party, if this person has acquired a visit permit from the Competent Authority of the Host Party and has a suitable need-to-know basis. Upon visit notification, such permit shall be issued to persons who are security cleared and are authorised to handle classified material and information (hereinafter referred to as the visitors).

2. The Competent Authority of the Originating Party shall inform the Competent Authority of the Host Party of expected visitors at least three weeks prior to the planned visit. In case of special needs, an authorisation of the visit shall be issued as soon as possible subject to prior coordination.

3. Izraz »material« pomeni dokument, izdelek ali snov, na katero ali v katero se lahko zapiše podatek ali lahko vsebuje ali vključuje podatke ne glede na obliko in med drugim vključuje pisne dokumente, strojno opremo, opremo, stroje, naprave, vzorce, fotografije, zvočne zapise, reprodukcije, zemljevide ali pisma ter druge izdelke, snovi ali predmete, ki bi lahko vsebovali podatke.

III. ČLEN: STOPNJE TAJNOSTI IN RAZKRITJE

1. Pogodbenika tajnega materiala in tajnih podatkov iz tega sporazuma, ki sta jih dobila pri obrambnem sodelovanju in skupnih projektih, ne smeta razkriti tretjim stranem, državam ali posameznikom brez predhodnega soglasja pogodbenika izvora.

2. Skladno z notranjo zakonodajo, predpisi in prakso pogodbenika izvajata ustrezne ukrepe za varovanje tajnega materiala in podatkov. Pogodbenik zagotavlja za ves tajni material in podatke enako varovanje kot za svoj tajni material in svoje podatke.

3. Dostop do tajnega materiala in podatkov je dovoljen samo tistim, ki jih potrebujejo za izpolnjevanje svojih nalog in jih je pooblastil pristojni organ ter imajo v skladu z notranjo zakonodajo dostop do tajnih podatkov. Dostop do podatkov stopnje tajnosti ZAUPNO ali višje imajo lahko le osebe z ustreznim dovoljenjem za dostop do tajnih podatkov.

IV. ČLEN: OZNAKE TAJNOSTI PROJEKTOV

1. Pogodbenik, seznanjen z varnostnimi ukrepi iz ustreznih notranjih zakonov in predpisov, varuje tajni material in tajne podatke, ki se izmenjavajo po tem sporazumu, in sprejme ustreznice oznak tajnosti, ki so navedene v preglednici:

REPUBLIKA SLOVENIJA	ANGLEŠKA USTREZNICA	DRŽAVA IZRAEL
STROGO TAJNO	TOP SECRET	SODI BEYOTER
TAJNO	SECRET	SODI
ZAUPNO	CONFIDENTAL	SHAMUR
INTERNO	RESTRICTED	SHAMUR

2. Pogodbenik po prejemu tajni material in tajne podatke evidentira in označi s svojo oznako tajnosti skladno z ustreznicami, ki so navedene v zgornji preglednici. Pogodbenik izvora obvesti pogodbenika prejemnika o vsaki spremembi oznake tajnosti.

3. Smernice za stopnje tajnosti pri posameznem projektu se usklajujejo med osebami za stike obeh pogodbenikov, kot je določeno v VIII. členu.

V. ČLEN: OBISKOVALCI IN VARNOSTNO PREVERJANJE

1. Dostop do tajnega materiala in podatkov ter do objektov, v katerih se izvajajo tajni projekti na podlagi tega sporazuma, zagotovi pogodbenik osebi drugega pogodbenika, če je pridobila dovoljenje pristojnega organa pogodbenika gostitelja za obisk in ima potrebo po vedenju. Po najavi obiska se tako dovoljenje izda osebam, ki so varnostno preverjene in pooblaščene za delo s tajnim materialom in podatki (v nadaljnjem besedilu: obiskovalci).

2. Pristojni organ pogodbenika izvora obvesti pristojni organ pogodbenika gostitelja o pričakovanih obiskovalcih vsaj tri tedne pred načrtovanim obiskom. V nujnih primerih se dovoljenje za obisk zagotovi čim prej po predhodni uskladitvi.

3. Requests for visits must comprise the following data:

A. name of the visitor, date and place of birth, nationality and passport number.

B. official title of the visitor and the name of the entity, plant or organization represented by the visitor;

C. security clearance of the visitor by his/her Competent Authority;

D. planned date of visit;

E. purpose of the visit;

F. name of plants, installations and premises to be visited;

G. names of persons of the Host Party to be visited, names of units and plants or organisations.

4. Upon approval by the Competent Authority, a visit permit shall be issued for a specified period of time required for a specific project. Recurring visit permits shall be issued for a period not exceeding 12 months. These permits shall be issued by the Competent Authorities of the Parties.

5. The Competent Authority of the Party and authority for issuing the visit permits in the Republic of Slovenia is the Intelligence and Security Service (ISS) of the Ministry of defence of the Republic of Slovenia, the Competent Authority for the State of Israel and authority for issuing the visit permits is Directorate of Security for the Defence Establishment (DSDE).

ARTICLE VI: TRANSFER OF CLASSIFIED MATERIAL AND INFORMATION

1. The Parties shall request and transfer classified material and classified information only through secure channels approved by them in accordance with internal legislation.

ARTICLE VII: UNAUTHORISED DISCLOSURE OR LOSS OF CLASSIFIED MATERIAL AND INFORMATION

1. In case of unauthorised disclosure or loss of classified material and information, the Receiving Party shall investigate every case for which it is known or suspected that classified material and information of the Originating Party were disclosed to unauthorised persons or were lost. The Receiving Party must promptly inform the Originating Party of any details concerning such cases and of the final results of such investigations or of corrective measures in order to prevent such cases from recurring.

2. The Party conducting such an investigation shall cover all costs incurred by the investigation; these costs are not subject to reimbursement by the other Party.

ARTICLE VIII: NOMINATED SECURITY AUTHORITIES FOR MONITORING AGREEMENT IMPLEMENTATION

1. Each Party shall nominate an authority responsible for monitoring the implementation of this Agreement, regarding the protection of classified material and information:

For the Ministry of Defence of the State of Israel – Directorate of Security for the Defence Establishment (DSDE).

For the Ministry of Defence of the Republic of Slovenia: Intelligence and Security Service (ISS) at the Ministry of Defence of the Republic of Slovenia.

2. The above authorities of the Parties shall agree on joint security plans for exchange of classified material and information in line with this Agreement.

3. Each in their respective countries, the above mentioned Competent Authorities shall prepare and disseminate security instructions and procedures for the protection of classified material and information.

4. Each Party shall agree to and previously harmonise with the other Party all provisions, instructions, procedures and practices which are in any way related to the implementation of this Agreement in general and in all contracts concluded between private and public organisational units or companies engaged by both Parties for the purposes of this Agreement.

3. Prošnje za obisk morajo vključevati:

A. ime in priimek obiskovalca, datum in kraj rojstva, državljanstvo in številko potnega lista,

B. uradni naziv obiskovalca in ime subjekta, obrata ali organizacije, ki jo predstavlja,

C. dovoljenje za dostop do tajnih podatkov, ki ga obiskovalcu izda njegov pristojni organ,

D. načrtovani datum obiska,

E. namen obiska,

F. ime obratov, objektov in prostorov, ki jih bo obiskal,

G. imena in priimke oseb pogodbenika gostitelja, ki jih bo obiskal, imena enot in obratov ali organizacij.

4. Po odobritvi pristojnega organa se dovoljenje za obisk izda za določeno časovno obdobje, potrebno za posamezen projekt. Dovoljenja za večkratne obiske se izdajo za obdobje do 12 mesecev. Ta dovoljenja izdajata pristojna organa pogodbenikov.

5. Pristojni organ pogodbenika in organ za izdajo dovoljenj za obiske v Republiki Sloveniji je Obveščevalno varnostna služba Ministrstva za obrambo Republike Slovenije, pristojni organ v Državi Izrael in organ za izdajo dovoljenj za obiske pa Direktorat za varnost in obrambo.

VI. ČLEN: PRENOS TAJNEGA MATERIALA IN PODATKOV

1. Pogodbenika zahtevata in si pošiljata tajni material in tajne podatke samo po varnih poteh, ki sta jih potrdila v skladu z notranjo zakonodajo.

VII. NEPOOBLAŠČENO RAZKRITJE ALI IZGUBA TAJNEGA MATERIALA IN PODATKOV

1. Ob nepooblaščenem razkritju ali izgubi tajnega materiala in podatkov pogodbenik prejemnik razišče vse primere, za katere je znano ali obstaja sum, da so bili tajni material in podatki pogodbenika izvora razkriti nepooblaščenim osebam ali izgubljeni. Pogodbenik prejemnik mora nemudoma obvestiti pogodbenika izvora o vseh podrobnostih takih primerov in končnih izsledkih preiskave ali o ukrepih, da se prepreči ponovitev takih primerov.

2. Pogodbenik, ki vodi tako preiskavo, krije vse stroške preiskave; teh stroškov drugemu pogodbeniku ni treba povrniti.

VIII. ČLEN: IMENOVANA VARNOSTNA ORGANA ZA SPREMLJANJE IZVAJANJA SPORAZUMA

1. Vsak pogodbenik imenuje organ za spremljanje izvajanja sporazuma v zvezi z varovanjem tajnega materiala in podatkov:

za Ministrstvo za obrambo Države Izrael: Direktorat za varnost in obrambo,

za Ministrstvo za obrambo Republike Slovenije: Obveščevalno varnostna služba Ministrstva za obrambo Republike Slovenije.

2. Navedena organa pogodbenikov se dogovorita o skupnih varnostnih načrtih za izmenjavo tajnega materiala in podatkov skladno s tem sporazumom.

3. Navedena organa vsak za svojo državo pripravita varnostna navodila in določita postopke za varovanje tajnega materiala in podatkov ter z njimi seznanita pristojne v svojih državah.

4. Pogodbenika se po predhodni uskladitvi dogovorita o določbah, navodilih, postopkih in praksi, ki so povezani z izvajanjem tega sporazuma na splošno, in pri vseh pogodbah, sklenjenih med zasebnimi in javnimi organizacijskimi enotami ali podjetji, ki jih pogodbenika vključita zaradi izvajanja tega sporazuma.

5. Both Competent Authorities shall coordinate mutual visits to exchange views and ideas concerning the activities to be performed according to this Agreement.

6. Each Party shall appoint a contact person:

For the Ministry of Defence of the State of Israel: Head of the Information Security at DSDE.

For the Ministry of Defence of the Republic of Slovenia: General director of the Intelligence and Security Service at the Ministry of Defence of the Republic of Slovenia or a person authorised by the General director.

ARTICLE IX: SETTLEMENT OF DISPUTES

1. In case of a dispute between the Parties as to the interpretation or implementation of provisions or any other issues arising from this Agreement, the Parties shall agree to settle the dispute amicably and shall not submit it for settlement to third parties or any national or international tribunal.

2. During the settlement of any dispute, both Parties must continue to meet all obligations under this Agreement.

ARTICLE X: EFFECTIVE DATE, TERMINATION AND APPLICATION

1. This Agreement shall enter into force on the day on which the Parties notify each other that all internal legal requirements for its entry into force have been met. The present agreement will apply provisionally from the date of the last signature. It may be terminated by way of written notification at any time by either Party, in such case the Agreement shall be terminated six (6) months after the date of receiving such denunciation by other Party. Nevertheless, the Agreement shall remain in force and apply to any or all activities, contracts or exchange of classified material and information carried out prior to its termination.

2. This Agreement shall be on a case-by-case basis subject to “modus operandi” defined separately from this Agreement by the Competent Authorities of the Parties as defined in the first paragraph, Article VIII. Any contract signed and subject to “modus operandi” shall be in line with this Agreement.

3. If this Agreement is terminated, the classifications of all existing projects shall remain in force until the Parties reach a mutual agreement on security issues.

XI. MISCELLANEOUS

1. The Party’s inability to insist in one or several cases on consistent implementation of provisions of this Agreement or to exercise any rights arising from this shall not be construed as a waiver within the framework of the Party’s rights to apply or react to such provisions or rights on any future occasion.

2. The purpose of article headings is to facilitate reference and are not intended and shall not be applied to limit or extend the wording of provisions to which these headings refer.

3. Neither Party may assign rights or obligations arising from this Agreement or in any other way transfer these rights or obligations without a written consent of the other Party.

4. Each Party shall assist the personnel of the other Party in performing services and/or exercising rights in accordance with the provisions from this Agreement in the country of the other Party.

5. All previous information that has been exchanged in the area of defence cooperation prior this agreement coming into force will be protected in accordance with the provisions stated in this agreement.

ARTICLE XII: NOTIFICATIONS

1. Notifications or messages required or permitted on the basis of this Agreement shall be forwarded to the addresses listed below in accordance with the provisions of this Agreement.

2. Notifications generated by either Party to this Agreement must be in writing and in the English language.

5. Pristojna organa se dogovarjata o vzajemnih obiskih za izmenjavo mnenj in zamisli glede dejavnosti, ki se izvajajo po tem sporazumu.

6. Vsak pogodbenik imenuje osebo za stike:

za Ministrstvo za obrambo Države Izrael: vodja Oddelka za informacijsko varnost Direktorata za varnost in obrambo;

za Ministrstvo za obrambo Republike Slovenije: generalni direktor Obveščevalno varnostne službe Ministrstva za obrambo Republike Slovenije ali oseba, ki jo pooblasti.

IX. ČLEN: REŠEVANJE SPOROV

1. Ob sporu zaradi razlage ali izvajanja določb ali katerega koli drugega vprašanja iz sporazuma se pogodbenika dogovorita, da ga bosta reševala po mirni poti in ga ne bosta predložila v reševanje tretji strani niti kateremu koli državnemu ali mednarodnemu razsodišču.

2. Med reševanjem spora morata pogodbenika še naprej izpolnjevati vse obveznosti iz tega sporazuma.

X. ČLEN: DATUM VELJAVNOSTI, ODPOVED IN UPORABA

1. Sporazum začne veljati z dnem, ko pogodbenika drug drugega uradno obvestita, da so izpolnjeni vsi notranjepravni pogoji za začetek njegove veljavnosti. Sporazum se začasno uporablja od dne zadnjega podpisa. Pogodbenika lahko sporazum kadar koli odpovesta z uradnim pisnim obvestilom. V takem primeru sporazum preneha veljati šest (6) mesecev po datumu, ko je drug pogodbenik prejel uradno obvestilo o odpovedi. Kljub temu ta sporazum še naprej velja in se uporablja za dejavnosti, pogodbe ali izmenjavo tajnega materiala in podatkov, začete pred njegovo odpovedjo.

2. Odvisno od primera se za ta sporazum uporablja način dela, o katerem se pristojna organa pogodbenikov iz prvega odstavka VIII. člena dogovorita ločeno od tega sporazuma. Vsaka pogodba, ki se podpiše in za katero velja ta način dela, mora biti v skladu s tem sporazumom.

3. Ob odpovedi tega sporazuma stopnja tajnosti vseh projektov velja še naprej, dokler se pogodbenika ne dogovorita o varnostnih vprašanjih.

XI. RAZNO

1. Če pogodbenik v enem ali več primerih ne more vztrajati pri doslednem izvajanju določb tega sporazuma ali uresničevati pravic, ki iz tega izhajajo, se to ne šteje kot odrek pravicam pogodbenika, da kdaj drugič uporablja določbe ali uveljavlja pravice ali se nanje odzove.

2. Namen naslovov členov je olajšati sklicevanje in niso namenjeni in se ne uporabljajo za omejevanje ali razširjanje vsebine določb, na katere se ti naslovi nanašajo.

3. Pogodbenik ne sme dodeliti ali kako drugače prenesti pravic ali obveznosti iz tega sporazuma brez pisnega soglasja drugega pogodbenika.

4. Pogodbenik pomaga osebju drugega pogodbenika pri izvajanju storitev in/ali uresničevanju pravic skladno s tem sporazumom v državi drugega pogodbenika.

5. Vse informacije, ki so že bile izmenjane pri obrambnem sodelovanju pred začetkom veljavnosti tega sporazuma, se bodo varovale skladno s tem sporazumom.

XII. ČLEN: URADNA OBVESTILA

1. Uradna obvestila ali sporočila, ki se zahtevajo ali so dovoljena na podlagi tega sporazuma, se v skladu s tem sporazumom pošiljajo na navedena naslova.

2. Uradna obvestila, ki jih pripravi pogodbenik tega sporazuma, morajo biti pisna in v angleškem jeziku.

3. Notifications shall be sent to the following addresses:

Ministry of Defence of The State of Israel:
The State of Israel – Ministry of Defence
Head of Information Security for the Defence Establishment (DSDE)
Hakiria, Tel-Aviv, Israel
Telephone: ++ 972-3-697-5486
Fax: ++ 972-3-697-5138

Ministry of Defence of the Republic of Slovenia:
General director of Intelligence and Security Service of the Ministry of Defence of Republic of Slovenia
Dimičeva 15
1000 Ljubljana
Slovenia
Telephone: ++ 386-1-471-1300
Fax: ++ 386-1-471-9022

ARTICLE XIII: ENTIRE ARRANGEMENT

The present Agreement constitutes the entire arrangement between the Parties to the Agreement and supersedes all previous notifications or assurances, either oral or written, prepared for these purposes by the Parties taking into consideration the subject-matter of this Agreement.

This Agreement may be amended at any time on the basis of mutual agreement by the Parties. Any amendment must be in writing only, signed by the duly authorized representatives of each Party. Any amendment shall enter into force in line with the provisions of Article X of this Agreement. This Agreement is done in two originals, in English language.

IN WITNESS WHEREOF the Parties have signed this Agreement.

For the Ministry of Defence of The State of Israel:	**For the Ministry of Defence of the Republic of Slovenia:**
TITLE:	TITLE:
Director DSDE (MALMAB) and Senior Deputy Director General	General director of Intelligence and Security Service
Yechiel Horev (s)	**Damir Črnčec, M. Sc.** (s)
Date and place:	Date and place:
18. 4. 2007	18. 4. 2007, Tel Aviv

3. Uradna obvestila se pošiljajo na naslova:

Ministrstvo za obrambo Države Izrael:
The State of Israel – Ministry of Defence
Head of Information Security for the Defence Establishment
Hakiria
Tel Aviv
Izrael
Telephone: ++ 972-3-697-5486
Fax: ++ 972-3-697-5138

Ministrstvo za obrambo Republike Slovenije:
Generalni direktor Obveščevalno varnostne službe Ministrstva za obrambo Republike Slovenije
Dimičeva 15
1000 Ljubljana
Slovenija
Telefon: ++ 386-1-471-1300
Telefaks: ++ 386-1-471-9022

XIII. ČLEN: CELOVIT DOGOVOR

Sporazum pomeni celovit dogovor med pogodbenikoma sporazuma in nadomešča vsa predhodna ustna ali pisna sporočila ali zagotovila, ki sta jih v ta namen pripravila pogodbenika ob upoštevanju vsebine tega sporazuma.

Sporazum se lahko kadar koli spremeni s soglasjem pogodbenikov. Vsaka sprememba mora biti pisna, podpisati pa jo morata pravilno pooblaščena predstavnika pogodbenikov. Spremembe začnejo veljati v skladu z X. členom. Sporazum je sestavljen v dveh izvirnikih v angleškem jeziku.

V potrditev tega sta pogodbenika podpisala ta sporazum.

Za Ministrstvo za obrambo Države Izrael	**Za Ministrstvo za obrambo Republike Slovenije**
NAZIV:	NAZIV:
direktor Direktorata za varnost in obrambo in namestnik generalnega direktorja	generalni direktor Obveščevalno varnostne službe
Yechiel Horev l.r.	**mag. Damir Črnčec** l.r.
Datum in kraj:	Datum in kraj:
18. 4. 2007	18. 4. 2007, Tel Aviv

3. člen

Za izvajanje sporazuma skrbi Ministrstvo za obrambo.

4. člen

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

Št. 00724-9/2008
Ljubljana, dne 7. februarja 2008
EVA 2008-1811-0045

Vlada Republike Slovenije

Janez Janša l.r.
Predsednik

VSEBINA

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Izdajatelj Služba Vlade RS za zakonodajo – direktor dr. Janez Pogorelec • Založnik Uradni list Republike Slovenije d.o.o. – direktor dr. Damjan Žugelj • Priprava Uradni list Republike Slovenije d.o.o. • Tisk Tiskarna SET, d.d., Vevče • Internet: uradni-list.si – e-pošta: info@uradni-list.si