

**61. Zakon o ratifikaciji Konvencije Sveta Evrope o ukrepanju proti trgovini z ljudmi (MKUTL)**

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

### U K A Z

#### **o razglasitvi Zakona o ratifikaciji Konvencije Sveta Evrope o ukrepanju proti trgovini z ljudmi (MKUTL)**

Razglašam Zakon o ratifikaciji Konvencije Sveta Evrope o ukrepanju proti trgovini z ljudmi (MKUTL), ki ga je sprejel Državni zbor Republike Slovenije na seji 15. julija 2009.

Št. 003-02-7/2009-15  
Ljubljana, dne 23. julija 2009

**dr. Danilo Türk** l.r.  
Predsednik  
Republike Slovenije

### Z A K O N

#### **O RATIFIKACIJI KONVENCIJE SVETA EVROPE O UKREPANJU PROTI TRGOVINI Z LJUDMI (MKUTL)**

##### 1. člen

Ratificira se Konvencija Sveta Evrope o ukrepanju proti trgovini z ljudmi, sklenjena v Varšavi 16. maja 2005.

##### 2. člen

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

#### **COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS**

##### **Preamble**

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

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that trafficking in human beings constitutes a violation of human rights and an offence to the dignity and the integrity of the human being;

Considering that trafficking in human beings may result in slavery for victims;

Considering that respect for victims' rights, protection of victims and action to combat trafficking in human beings must be the paramount objectives;

Considering that all actions or initiatives against trafficking in human beings must be non-discriminatory, take gender equality into account as well as a child-rights approach;

Recalling the declarations by the Ministers for Foreign Affairs of the Member States at the 112th (14-15 May 2003) and the 114th (12-13 May 2004) Sessions of the Committee of Ministers calling for reinforced action by the Council of Europe on trafficking in human beings;

Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and its protocols;

#### **KONVENCIJA SVETA EVROPE O UKREPANJU PROTI TRGOVINI Z LJUDMI**

##### **Preambula**

Države članice Sveta Evrope in druge podpisnice konvencije so se

ob upoštevanju, da je cilj Sveta Evrope doseči večjo enotnost njegovih članic;

ob upoštevanju, da trgovina z ljudmi pomeni kršitev človekovih pravic in napad na človekovo dostojanstvo in integriteto;

ob upoštevanju, da je posledica trgovine z ljudmi lahko suženjstvo žrtev;

ob upoštevanju, da morajo biti spoštovanje pravic žrtev, varstvo žrtev in boj proti trgovini z ljudmi najpomembnejši cilji;

ob upoštevanju, da morajo biti vsi ukrepi ali pobude proti trgovini z ljudmi nediskriminacijski ter upoštevati enakost spolov in pravice otrok;

ob sklicevanju na izjave ministrov za zunanje zadeve držav članic na 112. zasedanju (14.–15. maj 2003) in 114. zasedanju (12.–13. maj 2004) Odbora ministrov, ki pozivajo k večjemu ukrepanju Sveta Evrope proti trgovini z ljudmi;

ob upoštevanju Konvencije o varstvu človekovih pravic in temeljnih svoboščin (1950) in njenih protokolov;

Bearing in mind the following recommendations of the Committee of Ministers to member states of the Council of Europe: Recommendation No. R (91) 11 on sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults; Recommendation No. R (97) 13 concerning intimidation of witnesses and the rights of the defence; Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation and Recommendation Rec (2001) 16 on the protection of children against sexual exploitation; Recommendation Rec (2002) 5 on the protection of women against violence;

Bearing in mind the following recommendations of the Parliamentary Assembly of the Council of Europe: Recommendation 1325 (1997) on traffic in women and forced prostitution in Council of Europe member states; Recommendation 1450 (2000) on violence against women in Europe; Recommendation 1545 (2002) on a campaign against trafficking in women; Recommendation 1610 (2003) on migration connected with trafficking in women and prostitution; Recommendation 1611 (2003) on trafficking in organs in Europe; Recommendation 1663 (2004) Domestic slavery: servitude, au pairs and mail-order brides;

Bearing in mind the European Union Council Framework Decision of 19 July 2002 on combating trafficking in human beings, the European Union Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings and the European Union Council Directive of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;

Taking due account of the United Nations Convention against Transnational Organized Crime and the Protocol thereto to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children with a view to improving the protection which they afford and developing the standards established by them;

Taking due account of the other international legal instruments relevant in the field of action against trafficking in human beings;

Taking into account the need to prepare a comprehensive international legal instrument focusing on the human rights of victims of trafficking and setting up a specific monitoring mechanism,

Have agreed as follows:

## **Chapter I – Purposes, scope, non-discrimination principle and definitions**

### **Article 1 – Purposes of the Convention**

1 The purposes of this Convention are:

a to prevent and combat trafficking in human beings, while guaranteeing gender equality;

b to protect the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, while guaranteeing gender equality, as well as to ensure effective investigation and prosecution;

c to promote international cooperation on action against trafficking in human beings.

2 In order to ensure effective implementation of its provisions by the Parties, this Convention sets up a specific monitoring mechanism.

### **Article 2 – Scope**

This Convention shall apply to all forms of trafficking in human beings, whether national or transnational, whether or not connected with organised crime.

ob upoštevanju naslednjih priporočil Odbora ministrov državam članicam Sveta Evrope: Priporočilo št. R (91) 11 o spolnem izkoriščanju, pornografiji in prostituciji ter trgovini z otroki in mladoletniki; Priporočilo št. R (97) 13 o ustrahovanju prič in pravicah do obrambe, Priporočilo št. R (2000) 11 o ukrepanju proti trgovini z ljudmi za namene spolnega izkoriščanja, Priporočilo Rec (2001) 16 o varstvu otrok pred spolnim izkoriščanjem in Priporočilo Rec (2002) 5 o varstvu žensk pred nasiljem;

ob upoštevanju naslednjih priporočil Parlamentarne skupščine Sveta Evrope: Priporočilo 1325 (1997) o trgovini z ženskami in prisilni prostituciji v državah članicah Sveta Evrope, Priporočilo 1450 (2000) o nasilju nad ženskami v Evropi, Priporočilo 1545 (2002) za ozaveščanje o trgovini z ženskami, Priporočilo 1610 (2003) o migracijah, povezanih s trgovino z ženskami in prostitucijo, Priporočilo 1611 (2003) o trgovini z organi v Evropi, Priporočilo 1663 (2004) o suženstvu v domačem okolju: služabništvo, varuške in naročanje nevest po pošti;

ob upoštevanju Okvirnega sklepa Sveta Evropske unije z dne 19. julija 2002 o boju proti trgovanju z ljudmi, Okvirnega sklepa Sveta Evropske unije z dne 15. marca 2001 o položaju žrtv v kazenskem postopku in Direktive Sveta Evropske unije z dne 29. aprila 2004 o dovoljenju za prebivanje, za državljane tretjih držav, ki so žrtve trgovine z ljudmi ali so jim pomagali pri nezakoniti preselitvi, in ki sodelujejo s pristojnimi organi;

ob upoštevanju Konvencije Združenih narodov proti mednarodnemu organiziranemu kriminalu in njenega Protokola za preprečevanje, zatiranje in kaznovanje trgovine z ljudmi, zlasti ženskami in otroki, zaradi izboljšanja varstva, ki ga zagotavlja, in za razvoj standardov, ki jih vsebujeta;

ob upoštevanju drugih mednarodnopravnih dokumentov, pomembnih za ukrepanje proti trgovini z ljudmi;

ob upoštevanju potrebe, da se pripravi celosten mednarodnopravni dokument, ki obravnava človekove pravice žrtv trgovine z ljudmi in s katerim se ustanavlja poseben mehanizem za spremljanje, dogovorile:

## **I. poglavje – Namen, področje uporabe, načelo nediskriminacije in opredelitev pojmov**

### **1. člen – Namen konvencije**

1. Namen te konvencije je:

a) preprečevati trgovino z ljudmi in se bojevati proti njej, obenem pa zagotavljati enakost spolov;

b) varovati človekove pravice žrtv trgovine z ljudmi, oblikovati celovito varstvo in pomoč za žrtve in prič, obenem pa zagotavljati enakost spolov ter zagotoviti učinkovito preiskavo in pregon;

c) spodbujati mednarodno sodelovanje pri ukrepanju proti trgovini z ljudmi.

2. Da bi pogodbenice učinkovito izvajale konvencijo, se z njo vzpostavlja poseben mehanizem za spremljanje.

### **2. člen – Področje uporabe**

Ta konvencija se uporablja za vse oblike trgovine z ljudmi na nacionalni ali nadnacionalni ravni, povezane z organiziranim kriminalom ali ne.

**Article 3 – Non-discrimination principle**

The implementation of the provisions of this Convention by Parties, in particular the enjoyment of measures to protect and promote the rights of victims, shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

**Article 4 – Definitions**

For the purposes of this Convention:

a "Trafficking in human beings" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

b The consent of a victim of "trafficking in human beings" to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

c The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in human beings" even if this does not involve any of the means set forth in subparagraph (a) of this article;

d "Child" shall mean any person under eighteen years of age;

e "Victim" shall mean any natural person who is subject to trafficking in human beings as defined in this article.

**Chapter II – Prevention, co-operation and other measures****Article 5 – Prevention of trafficking in human beings**

1 Each Party shall take measures to establish or strengthen national co-ordination between the various bodies responsible for preventing and combating trafficking in human beings.

2 Each Party shall establish and/or strengthen effective policies and programmes to prevent trafficking in human beings, by such means as: research, information, awareness raising and education campaigns, social and economic initiatives and training programmes, in particular for persons vulnerable to trafficking and for professionals concerned with trafficking in human beings.

3 Each Party shall promote a Human Rights-based approach and shall use gender mainstreaming and a child-sensitive approach in the development, implementation and assessment of all the policies and programmes referred to in paragraph 2.

4 Each Party shall take appropriate measures, as may be necessary, to enable migration to take place legally, in particular through dissemination of accurate information by relevant offices, on the conditions enabling the legal entry in and stay on its territory.

5 Each Party shall take specific measures to reduce children's vulnerability to trafficking, notably by creating a protective environment for them.

6 Measures established in accordance with this article shall involve, where appropriate, non-governmental organisations, other relevant organisations and other elements of civil society committed to the prevention of trafficking in human beings and victim protection or assistance.

**Article 6 – Measures to discourage the demand**

To discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking, each Party shall adopt or strengthen legislative, administrative, educational, social, cultural or other measures including:

**3. člen – Načelo nediskriminacije**

Pogodbenice z izvajanjem konvencije zagotavljajo predvsem varstvo in spodbujanje pravic žrtev brez zapostavljanja na kakršni koli podlagi, kot so spol, rasa, barva, jezik, veroizpoved, politično ali drugo prepričanje, narodno ali socialno poreklo, pripadnost narodni manjšini, premoženje, rojstvo ali druga osebna okoliščina.

**4. člen – Opredelitev pojmov**

V tej konvenciji:

a) »trgovina z ljudmi« pomeni novačenje, prevoz, premestitev, dajanje zatočišča ali sprejemanje oseb zaradi izkoriščanja z grožnjo, uporabo sile ali drugimi oblikami prisile, ugrabitvijo, goljufijo, prevaro, zlorabo pooblastil ali ranljivosti ali dajanjem ali prejemanjem plačil ali koristi, da se doseže soglasje osebe, ki ima nadzor nad drugo osebo. Izkoriščanje vključuje vsaj izkoriščanje prostitucije ali drugih oblik spolne zlorabe oseb, njihovo prisilno delo ali storitve, suženjstvo ali podobna stanja, služabništvo ali odstranitev organov;

b) soglasje žrtve trgovine z ljudmi o nameravanem izkoriščanju iz prejšnje točke se ne upošteva, če so bila uporabljena sredstva iz prejšnje točke;

c) novačenje, prevoz, premestitev, dajanje zatočišča ali sprejemanje otrok zaradi izkoriščanja se šteje za trgovino z ljudmi, tudi če ne vključuje sredstev iz točke a tega odstavka;

d) »otrok« pomeni vsako osebo, ki še ni stara osemnajst let;

e) »žrtev« pomeni vsako fizično osebo, ki je podvržena trgovini z ljudmi, kot določa ta odstavek.

**II. poglavje – Preprečevanje, sodelovanje in drugi ukrepi****5. člen – Preprečevanje trgovine z ljudmi**

1 Pogodbenica sprejme ukrepe za vzpostavitev ali okrepitev nacionalnega usklajevanja med različnimi organi, odgovornimi za preprečevanje trgovine z ljudmi in boj proti njej.

2 Pogodbenica sprejme in/ali okrepi učinkovite politike in programe za preprečevanje trgovine z ljudmi z raziskavami, obveščanjem, izobraževanjem ter ozaveščanjem, družbenimi in gospodarskimi pobudami ter programi za usposabljanje, zlasti za osebe, ranljive za trgovino z ljudmi, in strokovnjake, vključene v ukrepanje proti trgovini z ljudmi.

3 Pogodbenica pri razvijanju, izvajanju in ocenjevanju vseh politik in programov iz prejšnjega odstavka spodbuja pristop, ki temelji na človekovih pravicah, vključuje načelo enakosti spolov ter uporablja otroku prilagojen pristop.

4 Pogodbenica sprejme potrebne ustrezne ukrepe, da se omogoči, da migracije potekajo zakonito, zlasti tako, da ustrezni organi razširjajo točne informacije o pogojih za zakonit vstop in prebivanje na njenem območju.

5 Pogodbenica sprejme posebne ukrepe za zmanjšanje ranljivosti otrok za trgovino z ljudmi, predvsem z ustvarjanjem varnega okolja zanje.

6 Kadar je primerno, ukrepi, sprejeti v skladu s tem členom, vključujejo nevladne organizacije, druge ustrezne organizacije in druge oblike civilne družbe, ki se ukvarjajo s preprečevanjem trgovine z ljudmi, varstvom žrtev ali pomočjo zanje.

**6. člen – Ukrepi za zmanjšanje povpraševanja**

Pogodbenica zaradi zmanjšanja povpraševanja, ki spodbuja vse oblike izkoriščanja ljudi, zlasti žensk in otrok, in vodi v trgovino z ljudmi, sprejme ali okrepi zakonodajne, upravne, izobraževalne, družbene, kulturne in druge ukrepe, kot so:

a research on best practices, methods and strategies;  
 b raising awareness of the responsibility and important role of media and civil society in identifying the demand as one of the root causes of trafficking in human beings;  
 c target information campaigns involving, as appropriate, *inter alia*, public authorities and policy makers;  
 d preventive measures, including educational programmes for boys and girls during their schooling, which stress the unacceptable nature of discrimination based on sex, and its disastrous consequences, the importance of gender equality and the dignity and integrity of every human being.

#### Article 7 – Border measures

1 Without prejudice to international commitments in relation to the free movement of persons, Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in human beings.

2 Each Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with this Convention.

3 Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4 Each Party shall take the necessary measures, in accordance with its internal law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5 Each Party shall adopt such legislative or other measures as may be necessary to permit, in accordance with its internal law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Convention.

6 Parties shall strengthen co-operation among border control agencies by, *inter alia*, establishing and maintaining direct channels of communication.

#### Article 8 – Security and control of documents

Each Party shall adopt such measures as may be necessary:

a To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and

b To ensure the integrity and security of travel or identity documents issued by or on behalf of the Party and to prevent their unlawful creation and issuance.

#### Article 9 – Legitimacy and validity of documents

At the request of another Party, a Party shall, in accordance with its internal law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in human beings.

### Chapter III – Measures to protect and promote the rights of victims, guaranteeing gender equality

#### Article 10 – Identification of the victims

1 Each Party shall provide its competent authorities with persons who are trained and qualified in preventing and combating trafficking in human beings, in identifying and helping victims, including children, and shall ensure that the different authorities collaborate with each other as well as with relevant support organisations, so that victims can be identified in a procedure duly taking into account the special situation of women and child victims and, in appropriate cases, issued with residence permits under the conditions provided for in Article 14 of the present Convention.

a) raziskave o najboljših praksah, metodah in strategijah;  
 b) ozaveščanje o odgovornosti in pomembni vlogi medijev ter civilne družbe pri prepoznavanju povpraševanja kot enega od pomembnih vzrokov za trgovino z ljudmi;

c) ciljno usmerjene kampanje obveščanja, ki po potrebi vključujejo organe oblasti in oblikovalce politik;

d) preventivne ukrepe, vključno z izobraževalnimi programi za dekleta in fante med šolanjem, ki poudarjajo nesprejemljivost zapostavljanja na podlagi spola in pogubne posledice, ki iz nje izhajajo, pomembnost enakosti spolov ter dostojanstva in integritete vsakega človeka.

#### 7. člen – Ukrepi na meji

1. Pogodbenice brez poseganja v mednarodne obveznosti v zvezi s prostim pretokom oseb poostrijo mejno kontrolo, ki je potrebna za preprečevanje in odkrivanje trgovine z ljudmi.

2. Pogodbenica sprejme zakonodajne in druge ustrezne ukrepe, da prepreči uporabo prevoznih sredstev, ki jih upravljajo komercialni prevozniki, za storitev kaznivih dejanj po tej konvenciji.

3. Kadar je primerno in brez poseganja v veljavne mednarodne konvencije ti ukrepi vključujejo uvedbo obveznosti za komercialne prevoznike, vključno s prevoznimi podjetji ali lastniki ali upravljavci prevoznih sredstev, da preverijo, ali imajo vsi potniki potne listine za vstop v državo.

4. Pogodbenica v skladu s svojim notranjim pravom sprejme potrebne ukrepe za kaznovanje, če so kršene obveznosti iz prejšnjega odstavka.

5. Pogodbenica v skladu s svojim notranjim pravom sprejme potrebne zakonodajne in druge ukrepe, da se zavrne vstop ali prekličejo vizumi oseb, ki so vpletene v kazniva dejanja po tej konvenciji.

6. Pogodbenice okrepijo sodelovanje med organi mejne kontrole, tako da med drugim vzpostavijo in vzdržujejo neposredne komunikacijske poti.

#### 8. člen – Varnost in kontrola dokumentov

Pogodbenica sprejme potrebne ukrepe,

a) da zagotovi, da so potni ali osebni dokumenti, ki jih izdaja, take kakovosti, da jih ni mogoče zlahka zlorabiti in da se ne dajo brez težav ponarediti ali nezakonito spremeniti, razmnožiti ali izdati, in

b) da zagotovi popolnost in varnost potnih ali osebnih dokumentov, ki jih izda pogodbenica ali kdo drug v njenem imenu, in da prepreči njihovo nezakonito izdelovanje in izdajanje.

#### 9. člen – Zakonitost in veljavnost dokumentov

Na zaprosilo druge pogodbenice pogodbenica v skladu s svojim notranjim pravom v primernem času preveri zakonitost in veljavnost potnih ali osebnih dokumentov, izdanih ali domnevno izdanih v njenem imenu, za katere obstaja sum, da so bili uporabljeni za trgovino z ljudmi.

### III. poglavje – Ukrepi za varstvo in spodbujanje uresničevanja pravic žrtev ob zagotavljanju enakosti spolov

#### 10. člen – Identifikacija žrtev

1. Pogodbenica svojim pooblaščenim organom zagotovi osebje, ki je usposobljeno in kvalificirano za preprečevanje in boj proti trgovini z ljudmi, identificiranje žrtev in pomoč žrtvam, vključno z otroki, in zagotovi, da različni organi sodelujejo med seboj, pa tudi z ustreznimi podpornimi organizacijami, da se žrtve lahko identificirajo v postopku, v katerem se ustrezno upošteva poseben položaj žensk in otrok, ki so žrtve, in jim v ustreznih primerih izda dovoljenje za prebivanje v skladu s pogoji iz 14. člena te konvencije.



2 Each Party shall adopt such legislative or other measures as may be necessary to identify victims as appropriate in collaboration with other Parties and relevant support organisations. Each Party shall ensure that, if the competent authorities have reasonable grounds to believe that a person has been victim of trafficking in human beings, that person shall not be removed from its territory until the identification process as victim of an offence provided for in Article 18 of this Convention has been completed by the competent authorities and shall likewise ensure that that person receives the assistance provided for in Article 12, paragraphs 1 and 2.

3 When the age of the victim is uncertain and there are reasons to believe that the victim is a child, he or she shall be presumed to be a child and shall be accorded special protection measures pending verification of his/her age.

4 As soon as an unaccompanied child is identified as a victim, each Party shall:

a provide for representation of the child by a legal guardian, organisation or authority which shall act in the best interests of that child;

b take the necessary steps to establish his/her identity and nationality;

c make every effort to locate his/her family when this is in the best interests of the child.

#### Article 11 – Protection of private life

1 Each Party shall protect the private life and identity of victims. Personal data regarding them shall be stored and used in conformity with the conditions provided for by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108).

2 Each Party shall adopt measures to ensure, in particular, that the identity, or details allowing the identification, of a child victim of trafficking are not made publicly known, through the media or by any other means, except, in exceptional circumstances, in order to facilitate the tracing of family members or otherwise secure the well-being and protection of the child.

3 Each Party shall consider adopting, in accordance with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms as interpreted by the European Court of Human Rights, measures aimed at encouraging the media to protect the private life and identity of victims through self-regulation or through regulatory or co-regulatory measures.

#### Article 12 – Assistance to victims

1. Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least:

a standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;

b access to emergency medical treatment;

c translation and interpretation services, when appropriate;

d counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;

e assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;

f access to education for children.

2 Each Party shall take due account of the victim's safety and protection needs.

3 In addition, each Party shall provide necessary medical or other assistance to victims lawfully resident within its territory who do not have adequate resources and need such help.

4 Each Party shall adopt the rules under which victims lawfully resident within its territory shall be authorised to have access to the labour market, to vocational training and education.

2. Pogodbenica sprejme potrebne zakonodajne ali druge ukrepe za identifikacijo žrtev po potrebi v sodelovanju z drugimi pogodbenicami in ustreznimi podpornimi organizacijami. Pogodbenica zagotovi, da se oseba, za katero pooblaščen organi utemeljeno sumijo, da je bila žrtev trgovine z ljudmi, ne odstrani z njenega območja, dokler pooblaščen organ ne dokonča postopka identifikacije žrtev kaznivega dejanja, kot ga določa 18. člen te konvencije, in obenem zagotovi, da ta oseba prejme pomoč iz prvega in drugega odstavka 12. člena.

3. Kadar ni znana starost žrtve in obstajajo razlogi za domnevo, da je žrtev otrok, se obravnava kot otrok, med ugotavljanjem njegove starosti pa zanj veljajo posebni varstveni ukrepi.

4. Takoj ko je otrok brez spremstva identificiran kot žrtev, pogodbenica:

a) poskrbi, da otroka zastopa zakoniti skrbnik, organizacija ali organ, ki ravna v korist otroka;

b) sprejme ustrezne ukrepe za ugotovitev njegove identitete in državljanstva;

c) si vsestransko prizadeva, da poišče njegovo družino, kadar je to v korist otroka.

#### 11. člen – Varstvo zasebnega življenja

1. Pogodbenica varuje zasebno življenje in identiteto žrtev. Njihovi osebni podatki se hranijo in uporabljajo v skladu s pogoji iz Konvencije o varstvu posameznikov glede na avtomatsko obdelavo osebnih podatkov (ETS, št. 108).

2. Pogodbenica sprejme ukrepe, da zagotovi, da identiteta ali podatki, ki omogočajo identifikacijo otroka, ki je žrtev trgovine z ljudmi, niso javno objavljeni v medijih ali kako drugače, razen v izjemnih okoliščinah, da se omogoči izsleditev družinskih članov ali kako drugače zagotovita dobro počutje in varstvo otroka.

3. Pogodbenica v skladu z 10. členom Konvencije o varstvu človekovih pravic in temeljnih svoboščin, kot jo razlaga Evropsko sodišče za človekove pravice, preuči sprejetje ukrepov, ki naj medije spodbujajo k varovanju zasebnega življenja in identitete žrtev, tako da sprejmejo notranje predpise ali da jih predpiše zakonodajalec sam ali v sodelovanju z njimi.

#### 12. člen – Pomoč žrtvam

1. Pogodbenica sprejme potrebne zakonodajne in druge ukrepe za pomoč žrtvam pri njihovem telesnem, psihološkem in socialnem okrevanju. Taka pomoč naj vsebuje najmanj:

a) življenjski standard, ki jim omogoča preživetje, in sicer z ukrepi, kot so: ustrezna in varna namestitve, psihološka in materialna pomoč;

b) dostop do nujne medicinske pomoči;

c) prevajalske storitve in tolmačenje, če je potrebno;

d) svetovanje in informacije, zlasti glede pravic in storitev, ki so jim na voljo, v jeziku, ki ga razumejo;

e) pomoč, ki zagotavlja, da so njihove pravice in interesi zastopani in upoštevani na ustreznih stopnjah kazenskega postopka proti storilcem;

f) otrokom zagotovi dostop do izobraževanja.

2. Pogodbenica ustrezno upošteva varnost in varstvo, ki ju potrebujejo žrtve.

3. Poleg tega vsaka pogodbenica zagotovi potrebno medicinsko ali drugo pomoč žrtvam, ki zakonito prebivajo na njenem območju in nimajo dovolj sredstev ter tako pomoč potrebujejo.

4. Pogodbenica sprejme predpise, v skladu s katerimi se žrtvam, ki zakonito prebivajo na njenem območju, dovoli dostop do trga dela, poklicnega usposabljanja in izobraževanja.

5 Each Party shall take measures, where appropriate and under the conditions provided for by its internal law, to cooperate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in assistance to victims.

6 Each Party shall adopt such legislative or other measures as may be necessary to ensure that assistance to a victim is not made conditional on his or her willingness to act as a witness.

7 For the implementation of the provisions set out in this article, each Party shall ensure that services are provided on a consensual and informed basis, taking due account of the special needs of persons in a vulnerable position and the rights of children in terms of accommodation, education and appropriate health care.

#### Article 13 – Recovery and reflection period

1 Each Party shall provide in its internal law a recovery and reflection period of at least 30 days, when there are reasonable grounds to believe that the person concerned is a victim. Such a period shall be sufficient for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities. During this period it shall not be possible to enforce any expulsion order against him or her. This provision is without prejudice to the activities carried out by the competent authorities in all phases of the relevant national proceedings, and in particular when investigating and prosecuting the offences concerned. During this period, the Parties shall authorise the persons concerned to stay in their territory.

2 During this period, the persons referred to in paragraph 1 of this Article shall be entitled to the measures contained in Article 12, paragraphs 1 and 2.

3 The Parties are not bound to observe this period if grounds of public order prevent it or if it is found that victim status is being claimed improperly.

#### Article 14 – Residence permit

1 Each Party shall issue a renewable residence permit to victims, in one or other of the two following situations or in both:

a the competent authority considers that their stay is necessary owing to their personal situation;

b the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.

2 The residence permit for child victims, when legally necessary, shall be issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions.

3 The non-renewal or withdrawal of a residence permit is subject to the conditions provided for by the internal law of the Party.

4 If a victim submits an application for another kind of residence permit, the Party concerned shall take into account that he or she holds, or has held, a residence permit in conformity with paragraph 1.

5 Having regard to the obligations of Parties to which Article 40 of this Convention refers, each Party shall ensure that granting of a permit according to this provision shall be without prejudice to the right to seek and enjoy asylum.

#### Article 15 – Compensation and legal redress

1 Each Party shall ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings in a language which they can understand.

2 Each Party shall provide, in its internal law, for the right to legal assistance and to free legal aid for victims under the conditions provided by its internal law.

3 Each Party shall provide, in its internal law, for the right of victims to compensation from the perpetrators.

5. Pogodbenica sprejme ukrepe, kadar je primerno in pod pogoji, ki jih določa notranje pravo za sodelovanje z nevladnimi organizacijami ali drugimi ustreznimi organizacijami ali drugimi oblikami civilne družbe, ki se ukvarjajo s pomočjo žrtvam.

6. Pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da pomoč žrtvi ni pogojena z nje-govo ali njeno pripravljenostjo, da sodeluje kot prič.

7. Pogodbenica za izvajanje tega člena zagotovi, da se storitve za nastanitev, izobraževanje in ustrezno zdravstveno oskrbo zagotavljajo na podlagi soglasja in seznanjenosti ter ob upoštevanju posebnih potreb oseb v ranljivem položaju in pravic otrok.

#### 13. člen – Obdobje okrevanja in razmisleka

1. Pogodbenica v notranjem pravu zagotovi vsaj 30-dnevno obdobje okrevanja in razmisleka, če obstajajo utemeljeni razlogi za domnevo, da je oseba žrtev. Tako obdobje naj traja dovolj dolgo, da si oseba opomore in se znebi vpliva trgovcev z ljudmi in/ali na podlagi seznanjenosti sprejme odločitev, da bo sodelovala s pristojnimi organi. V tem obdobju ni mogoče izvršiti odločbe za izgon. Ta določba ne vpliva na dejavnosti, ki jih opravljajo pooblaščen organi v vseh fazah ustreznih notranjih postopkov, zlasti pri preiskavi in pregonu kaznivih dejanj. V tem obdobju pogodbenice takim osebam dovolijo, da prebivajo na njihovem območju.

2. V tem obdobju so osebe iz prejšnjega odstavka upravičene do ukrepov iz prvega in drugega odstavka 12. člena.

3. Pogodbenicam ni treba upoštevati tega obdobja, če je to onemogočeno zaradi javnega reda in miru ali če se ugotovi, da oseba neupravičeno prosi za status žrtve.

#### 14. člen – Dovoljenje za prebivanje

1. Pogodbenica izda obnovljivo dovoljenje za prebivanje žrtvam v enem ali obeh navedenih primerih.

a) pristojni organ meni, da morajo ostati zaradi osebnih okoliščin;

b) pristojni organ meni, da morajo ostati zaradi sodelovanja s pooblaščenimi organi pri preiskavi ali v kazenskem postopku.

2. Dovoljenje za prebivanje se za otroke, ki so žrtve, kadar je to potrebno iz pravnih razlogov, izda v skladu s koristjo otroka in se po potrebi obnovi pod enakimi pogoji.

3. Za neobnovitev ali odvzem dovoljenja za prebivanje veljajo pogoji, določeni z notranjim pravom pogodbenice.

4. Če žrtev vloži prošnjo za drugačno vrsto dovoljenja za prebivanje, pogodbenica upošteva, da je žrtev imela ali ima dovoljenje za prebivanje v skladu s prvim odstavkom.

5. Ob upoštevanju obveznosti pogodbenic, na kar se sklicuje 40. člen te konvencije, vsaka pogodbenica zagotovi, da odobritev dovoljenja v skladu s to določbo ne vpliva na pravico do pridobitve in uživanja azila.

#### 15. člen – Odškodnina in pravna sredstva

1. Pogodbenica zagotovi, da imajo žrtve od svojega prvega stika s pristojnimi organi dostop do informacij o ustreznih sodnih in upravnih postopkih v jeziku, ki ga razumejo.

2. Pogodbenica v svojem notranjem pravu zagotovi pravico do pravne pomoči zagovornika in brezplačne pravne pomoči žrtvam pod pogoji, ki jih določa njeno notranje pravo.

3. Pogodbenica v svojem notranjem pravu žrtvam zagotovi pravico, da od storilcev dobijo odškodnino.

4 Each Party shall adopt such legislative or other measures as may be necessary to guarantee compensation for victims in accordance with the conditions under its internal law, for instance through the establishment of a fund for victim compensation or measures or programmes aimed at social assistance and social integration of victims, which could be funded by the assets resulting from the application of measures provided in Article 23.

#### Article 16 – Repatriation and return of victims

1 The Party of which a victim is a national or in which that person had the right of permanent residence at the time of entry into the territory of the receiving Party shall, with due regard for his or her rights, safety and dignity, facilitate and accept, his or her return without undue or unreasonable delay.

2 When a Party returns a victim to another State, such return shall be with due regard for the rights, safety and dignity of that person and for the status of any legal proceedings related to the fact that the person is a victim, and shall preferably be voluntary.

3 At the request of a receiving Party, a requested Party shall verify whether a person is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving Party.

4 In order to facilitate the return of a victim who is without proper documentation, the Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving Party shall agree to issue, at the request of the receiving Party, such travel documents or other authorisation as may be necessary to enable the person to travel to and re-enter its territory.

5 Each Party shall adopt such legislative or other measures as may be necessary to establish repatriation programmes, involving relevant national or international institutions and non governmental organisations. These programmes aim at avoiding re-victimisation. Each Party should make its best effort to favour the reintegration of victims into the society of the State of return, including reintegration into the education system and the labour market, in particular through the acquisition and improvement of their professional skills. With regard to children, these programmes should include enjoyment of the right to education and measures to secure adequate care or receipt by the family or appropriate care structures.

6 Each Party shall adopt such legislative or other measures as may be necessary to make available to victims, where appropriate in co-operation with any other Party concerned, contact information of structures that can assist them in the country where they are returned or repatriated, such as law enforcement offices, non-governmental organisations, legal professions able to provide counselling and social welfare agencies.

7 Child victims shall not be returned to a State, if there is indication, following a risk and security assessment, that such return would not be in the best interests of the child.

#### Article 17 – Gender equality

Each Party shall, in applying measures referred to in this chapter, aim to promote gender equality and use gender mainstreaming in the development, implementation and assessment of the measures.

### Chapter IV – Substantive criminal law

#### Article 18 – Criminalisation of trafficking in human beings

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct contained in article 4 of this Convention, when committed intentionally.

4. Pogodbenica sprejme potrebne zakonodajne in druge ukrepe za zagotovitev odškodnine žrtvam v skladu s svojim notranjim pravom, na primer tako, da se ustanovi sklad za odškodnino žrtvam ali sprejmejo ukrepi ali programi za socialno pomoč in vključitev žrtev v družbo, ki se lahko financirajo s sredstvi, ki izhajajo iz uporabe ukrepov iz 23. člena.

#### 16. člen – Vrnitev v matično državo in vrnitev žrtev

1. Pogodbenica, katere državljanstvo ima žrtev ali v kateri je imela pravico do stalnega prebivanja ob vstopu na območje pogodbenice sprejemnice, omogoči vrnitev te osebe in jo sprejme z upoštevanjem njenih pravic, varnosti in dostojanstva ter brez nepotrebnega in nerazumnega odlašanja.

2. Ob vrnitvi žrtve v drugo državo pogodbenica to opravi z upoštevanjem pravic, varnosti in dostojanstva te osebe ter statusa morebitnega pravnega postopka, povezanega s tem, da je oseba žrtev, vrnitev pa naj bo po možnosti prostovoljna.

3. Na zaprosilo pogodbenice sprejemnice zaprosena pogodbenica preveri, ali ima ta oseba njeno državljanstvo, ali je imela pravico do stalnega prebivanja na njenem območju ob vstopu na območje pogodbenice sprejemnice.

4. Da se omogoči vrnitev žrtve, ki nima ustreznih dokumentov, se pogodbenica, katere državljanstvo ima ali v kateri je oseba imela pravico do stalnega prebivanja ob vstopu na območje pogodbenice sprejemnice, strinja, da na zaprosilo pogodbenice sprejemnice izda take potne listine ali druga dovoljenja, ki so potrebna, da osebi omogočijo, da potuje in ponovno vstopi na njeno območje.

5. Pogodbenica sprejme potrebne zakonodajne in druge ukrepe za oblikovanje programov vračanja v matično državo, pri čemer sodeluje z ustreznimi nacionalnimi ali mednarodnimi institucijami in nevladnimi organizacijami. Ti programi so namenjeni preprečevanju ponovne obravnave oseb kot žrtev. Pogodbenica se po svojih najboljših močeh zavzema za ponovno vključevanje žrtev v družbo v državi, kamor so se vrstile, vključno z njihovo ponovno vključitvijo v izobraževalni sistem in na trg delovne sile, zlasti s pridobivanjem in izboljšanjem poklicnih spretnosti. Pri otrocih ti programi vključujejo pravico do izobrazbe in ukrepe za zagotovitev ustreznega varstva ali sprejem v družino ali ustrezno varstveno ustanovo.

6. Pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, da žrtvam po potrebi v sodelovanju s katero koli drugo pogodbenico priskrbi informacije o strukturah, ki jim lahko pomagajo v domovini ali državi, kamor se vračajo, kot so na primer organi kazenskega pregona, nevladne organizacije, pravni poklici, ki lahko zagotovijo svetovanje, ter socialne ustanove.

7. Otroci, ki so žrtve, se ne vračajo v državo, če iz ocene varnosti in tveganja izhaja, da vrnitev ne bi bila v njihovo korist.

#### 17. člen – Enakost spolov

Pogodbenica si pri izvajanju ukrepov iz tega poglavja prizadeva spodbujati enakost spolov in vključevati načelo enakosti spolov v razvijanje, izvajanje in ocenjevanje ukrepov.

### IV. poglavje – Materialno kazensko pravo

#### 18. člen – Kaznivost trgovine z ljudmi

Pogodbenica sprejme potrebne zakonodajne in druge ukrepe, da se ravnanje iz 4. člena te konvencije obravnava kot kaznivo dejanje, kadar je storjeno naklepno.

**Article 19 – Criminalisation of the use of services of a victim**

Each Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences under its internal law, the use of services which are the object of exploitation as referred to in Article 4 paragraph a of this Convention, with the knowledge that the person is a victim of trafficking in human beings.

**Article 20 – Criminalisation of acts relating to travel or identity documents**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the following conducts, when committed intentionally and for the purpose of enabling the trafficking in human beings:

- a forging a travel or identity document;
- b procuring or providing such a document;
- c retaining, removing, concealing, damaging or destroying a travel or identity document of another person.

**Article 21 – Attempt and aiding or abetting**

1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with Articles 18 and 20 of the present Convention.

2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences when committed intentionally, an attempt to commit the offences established in accordance with Articles 18 and 20, paragraph a, of this Convention.

**Article 22 – Corporate liability**

1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that a legal person can be held liable for a criminal offence established in accordance with this Convention, committed for its benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

- a a power of representation of the legal person;
- b an authority to take decisions on behalf of the legal person;
- c an authority to exercise control within the legal person.

2 Apart from the cases already provided for in paragraph 1, each Party shall take the measures necessary to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of a criminal offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.

3 Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.

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

**Article 23 – Sanctions and measures**

1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that the criminal offences established in accordance with Articles 18 to 21 are punishable by effective, proportionate and dissuasive sanctions. These sanctions shall include, for criminal offences established in accordance with Article 18 when committed by natural persons, penalties involving deprivation of liberty which can give rise to extradition.

2 Each Party shall ensure that legal persons held liable in accordance with Article 22 shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions or measures, including monetary sanctions.

**19. člen – Kaznivost uporabe storitev žrtve**

Pogodbenica preuči sprejetje potrebnih zakonodajnih in drugih ukrepov, da se uporaba storitev, ki po točki a 4. člena te konvencije pomenijo izkoriščanje, obravnava kot kaznivo dejanje po njenem notranjem pravu, če je uporabniku storitev znano, da je oseba žrtev trgovine z ljudmi.

**20. člen – Kaznivost dejanj, ki se nanašajo na potne ali osebne dokumente**

Pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, da se navedeno ravnanje obravnava kot kaznivo dejanje, kadar je storjeno naklepno in zaradi omogočanja trgovine z ljudmi:

- a) ponarejanje potnih in osebnih dokumentov;
- b) pridobitev ali zagotovitev dokumenta;
- c) zadržanje, odvzem, prikrievanje, poškodovanje ali uničenje potnih ali osebnih dokumentov druge osebe.

**21. člen – Poskus in udeležba pri kaznivem dejanju**

1. Pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, da se udeležba pri kaznivih dejanjih iz 18. in 20. člena konvencije obravnava kot kaznivi dejanji, kadar sta storjeni naklepno.

2. Pogodbenica sprejme potrebne zakonodajne in druge ukrepe, da se poskus storitve kaznivih dejanj iz 18. člena in točke a 20. člena konvencije obravnava kot kaznivo dejanje, kadar je storjeno naklepno.

**22. člen – Odgovornost pravnih oseb**

1. Pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, da se zagotovi, da je lahko pravna oseba odgovorna za kaznivo dejanje v skladu s konvencijo, ki ga je v njeno korist storila fizična oseba samostojno ali kot del organa pravne osebe, v kateri ima vodilni položaj, na podlagi:

- a) pooblastila o zastopanju pravne osebe;
- b) pristojnosti, da lahko sprejema odločitve v imenu pravne osebe;
- c) pristojnosti, da lahko opravlja nadzor v pravni osebi.

2. Poleg primerov iz prejšnjega odstavka pogodbenica sprejme potrebne ukrepe za zagotovitev, da je lahko pravna oseba odgovorna takrat, ko je pomanjkanje nadzora ali kontrole fizične osebe iz prejšnjega odstavka omogočilo, da je fizična oseba, ki je delovala v okviru njenih pristojnosti, storila kaznivo dejanje po tej konvenciji v korist pravne osebe.

3. Glede na pravna načela pogodbenice je lahko odgovornost pravne osebe kazenska, civilna ali upravna.

4. Taka odgovornost ne vpliva na kazensko odgovornost fizične osebe, ki stori kaznivo dejanje.

**23. člen – Sankcije in ukrepi**

1. Pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, da se zagotovi, da se kazniva dejanja, ki se določijo v skladu z 18. do 21. členom, kaznujejo z učinkovitimi, sorazmernimi in odvračilnimi sankcijami. Te sankcije naj za kazniva dejanja, ki se določijo v skladu z 18. členom konvencije in jih storijo fizične osebe, vključujejo tudi odvzem prostosti, ki je lahko povod za izročitev.

2. Pogodbenica zagotovi, da za pravne osebe, ki so odgovorne v skladu z 22. členom, veljajo učinkovite, sorazmerne in odvračilne kazenske ali nekazenske sankcije ali ukrepi, vključno z denarnimi kaznimi.



3 Each Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate or otherwise deprive the instrumentalities and proceeds of criminal offences established in accordance with Articles 18 and 20, paragraph a, of this Convention, or property the value of which corresponds to such proceeds.

4 Each Party shall adopt such legislative or other measures as may be necessary to enable the temporary or permanent closure of any establishment which was used to carry out trafficking in human beings, without prejudice to the rights of bona fide third parties or to deny the perpetrator, temporary or permanently, the exercise of the activity in the course of which this offence was committed.

#### Article 24 – Aggravating circumstances

Each Party shall ensure that the following circumstances are regarded as aggravating circumstances in the determination of the penalty for offences established in accordance with Article 18 of this Convention:

- a the offence deliberately or by gross negligence endangered the life of the victim;
- b the offence was committed against a child;
- c the offence was committed by a public official in the performance of her/his duties;
- d the offence was committed within the framework of a criminal organisation.

#### Article 25 – Previous convictions

Each Party shall adopt such legislative and other measures providing for the possibility to take into account final sentences passed by another Party in relation to offences established in accordance with this Convention when determining the penalty.

#### Article 26 – Non-punishment provision

Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.

### Chapter V – Investigation, prosecution and procedural law

#### Article 27 – *Ex parte* and *ex officio* applications

1 Each Party shall ensure that investigations into or prosecution of offences established in accordance with this Convention shall not be dependent upon the report or accusation made by a victim, at least when the offence was committed in whole or in part on its territory.

2 Each Party shall ensure that victims of an offence in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their State of residence. The competent authority to which the complaint is made, insofar as it does not itself have competence in this respect, shall transmit it without delay to the competent authority of the Party in the territory in which the offence was committed. The complaint shall be dealt with in accordance with the internal law of the Party in which the offence was committed.

3 Each Party shall ensure, by means of legislative or other measures, in accordance with the conditions provided for by its internal law, to any group, foundation, association or non-governmental organisations which aims at fighting trafficking in human beings or protection of human rights, the possibility to assist and/or support the victim with his or her consent during criminal proceedings concerning the offence established in accordance with Article 18 of this Convention.

3. Pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, da ji omogočijo, da zaseže ali kako drugače odvzame predmete, ki so bili uporabljeni za storitev kaznivega dejanja, in premoženjsko korist, ki izvira iz njega, kot določata 18. člen in točka a 20. člena te konvencije, ali premoženje v vrednosti, ki ustreza vrednosti take premoženjske koristi.

4. Pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, da zagotovi začasno ali stalno zaprtje prostorov, uporabljenih za izvajanje trgovine z ljudmi, brez vpliva na pravice dobrovernih tretjih oseb, ali da storilcu začasno ali trajno onemogoči opravljanje dejavnosti, v okviru katere je bilo storjeno kaznivo dejanje.

#### 24. člen – Oteževalne okoliščine

Pogodbenica zagotovi, da se navedene okoliščine obravnavajo kot oteževalne pri določanju kazni za kazniva dejanja, kot se določijo v skladu z 18. členom konvencije:

- a) kaznivo dejanje je storjeno naklepno ali je iz hude malomarnosti ogrozilo življenje žrtve;
- b) kaznivo dejanje je bilo storjeno zoper otroka;
- c) kaznivo dejanje je storil javni uslužbenec pri opravljanju svojih dolžnosti;
- d) kaznivo dejanje je bilo storjeno v okviru hudodelske združbe.

#### 25. člen – Predkaznovanost

Pogodbenica sprejme zakonodajne in druge ukrepe, ki omogočijo, da se pri določanju kazni upoštevajo pravnomočne sodbe, ki so bile izdane s strani druge pogodbenice v povezavi s kaznivimi dejanji v skladu s konvencijo.

#### 26. člen – Določba o nekaznovanju

Pogodbenica v skladu s temeljnimi načeli svojega pravnega sistema predvidi možnost, da žrtev ne kaznuje zaradi njihove vpletenosti v nezakonite dejavnosti, če so bile v to prisiljene.

### V. poglavje – Preiskava, pregon in procesno pravo

#### 27. člen – Zasebni pregon in pregon po uradni dolžnosti

1. Pogodbenica zagotovi, da preiskave in pregon kaznivih dejanj, določenih v skladu s to konvencijo, niso odvisni od prijave ali obtožbe žrtve, vsaj kadar je bilo kaznivo dejanje v celoti ali delno storjeno na njenem območju.

2. Pogodbenica zagotovi, da lahko žrtev kaznivega dejanja, storjenega na območju pogodbenice, v kateri ne prebiva, vložijo prijavo pri pristojnem organu države stalnega prebivališča. Če organ, pri katerem se vložijo prijave, ni pristojen za njeno obravnavo, jo nemudoma pošlje pristojnemu organu pogodbenice, na območju katere je bilo kaznivo dejanje storjeno. Prijava se obravnava v skladu z notranjim pravom pogodbenice, v kateri je bilo kaznivo dejanje storjeno.

3. Pogodbenica z zakonodajnimi in drugimi ukrepi ter v skladu s pogoji, ki jih določa njeno notranje pravo, vsaki skupini, ustanovi, društvu ali nevladni organizaciji, ki se bojuje proti trgovini z ljudmi ali se zavzema za varstvo človekovih pravic, zagotovi možnost, da žrtvi z njeno privolitvijo pomaga in/ali jo podpira med kazenskim postopkom v zvezi s kaznivim dejanjem, kot se določi v skladu z 18. členom konvencije.

### Article 28 – Protection of victims, witnesses and collaborators with the judicial authorities

1 Each Party shall adopt such legislative or other measures as may be necessary to provide effective and appropriate protection from potential retaliation or intimidation in particular during and after investigation and prosecution of perpetrators, for:

a victims;

b as appropriate, those who report the criminal offences established in accordance with Article 18 of this Convention or otherwise co-operate with the investigating or prosecuting authorities;

c witnesses who give testimony concerning criminal offences established in accordance with Article 18 of this Convention;

d when necessary, members of the family of persons referred to in subparagraphs a and c.

2 Each Party shall adopt such legislative or other measures as may be necessary to ensure and to offer various kinds of protection. This may include physical protection, relocation, identity change and assistance in obtaining jobs.

3 A child victim shall be afforded special protection measures taking into account the best interests of the child.

4 Each Party shall adopt such legislative or other measures as may be necessary to provide, when necessary, appropriate protection from potential retaliation or intimidation in particular during and after investigation and prosecution of perpetrators, for members of groups, foundations, associations or non-governmental organisations which carry out the activities set out in Article 27, paragraph 3.

5 Each Party shall consider entering into agreements or arrangements with other States for the implementation of this article.

### Article 29 – Specialised authorities and co-ordinating bodies

1 Each Party shall adopt such measures as may be necessary to ensure that persons or entities are specialised in the fight against trafficking and the protection of victims. Such persons or entities shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure. Such persons or the staffs of such entities shall have adequate training and financial resources for their tasks.

2 Each Party shall adopt such measures as may be necessary to ensure co-ordination of the policies and actions of their governments' departments and other public agencies against trafficking in human beings, where appropriate, through setting up co-ordinating bodies.

3 Each Party shall provide or strengthen training for relevant officials in the prevention of and fight against trafficking in human beings, including Human Rights training. The training may be agency-specific and shall, as appropriate, focus on: methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers.

4 Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements.

### Article 30 – Court proceedings

In accordance with the Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Article 6, each Party shall adopt such legislative or other measures as may be necessary to ensure in the course of judicial proceedings:

a the protection of victims' private life and, where appropriate, identity;

b victims' safety and protection from intimidation,

in accordance with the conditions under its internal law and, in the case of child victims, by taking special care of children's needs and ensuring their right to special protection measures.

### 28. člen – Zaščita žrtev, prič in oseb, ki sodelujejo s pravosodnimi organi

1. Pogodbenica sprejme potrebne zakonodajne in druge ukrepe za učinkovito in ustrezno zaščito pred morebitnim maščevanjem ali ustrahovanjem, zlasti med preiskavo in pregonom storilcev in po njiju:

a) za žrtve;

b) po potrebi za osebe, ki prijavijo kazniva dejanja, kot se določijo v skladu z 18. členom te konvencije, ali kako drugače sodelujejo s preiskovalnimi organi in organi pregona;

c) za priče, ki pričajo v zvezi s kaznivimi dejanji, kot se določijo v skladu z 18. členom te konvencije;

d) po potrebi za družinske člane oseb iz točk a in c.

2. Pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, da se zagotovijo in ponudijo različne oblike zaščite. To lahko vključuje fizično zaščito, premembo identitete in pomoč pri iskanju zaposlitve.

3. Otrok, ki je žrtev, je deležen posebnih zaščitnih ukrepov, pri čemer se upošteva njegova korist.

4. Pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, da se za člane skupin, ustanov, društev in nevladnih organizacij, ki izvajajo dejavnosti iz tretjega odstavka 27. člena, po potrebi zagotovi ustrezna zaščita pred morebitnim maščevanjem in ustrahovanjem, zlasti med preiskavo in pregonom storilcev in po njiju.

5. Za izvajanje tega člena pogodbenica preuči možnost za sklepanje sporazumov ali dogovorov z drugimi državami.

### 29. člen – Posebej usposobljeni organi in koordinacijska telesa

1. Pogodbenica sprejme potrebne ukrepe, da se zagotovi, da so osebe in organi posebej usposobljeni za boj proti trgovini in zagotavljanje zaščite žrtev. Te osebe in organi so neodvisni v skladu s temeljnimi načeli pravnega reda pogodbenice, tako da lahko svoje naloge opravljajo učinkovito in brez nepotrebne pritiska. Osebe ali osebje teh organov mora biti ustrezno usposobljeno in imeti finančna sredstva za opravljanje svojih nalog.

2. Pogodbenica sprejme potrebne ukrepe, da se zagotovi usklajevanje med politikami in ukrepi vladnih služb in drugih javnih organov, ki delujejo proti trgovini z ljudmi, po potrebi z ustanovitvijo usklajevalnih teles.

3. Pogodbenica zagotovi ali okrepi usposabljanje ustreznih javnih uslužbencev za preprečevanje trgovine z ljudmi in boj proti njej, vključno za varstvo človekovih pravic. Usposabljanje se lahko organizira posebej za posamezen organ in se po potrebi osredotoči na načine preprečevanja trgovine z ljudmi, pregon trgovcev z ljudmi in varstvo pravic žrtev, vključno z zaščito žrtev pred trgovci.

4. Pogodbenica predvidi možnost za imenovanje nacionalnih poročevalcev ali vzpostavitev drugih načinov za spremljanje dejavnosti državnih institucij za boj proti trgovini z ljudmi in izpolnjevanje obveznosti po notranji zakonodaji.

### 30. člen – Sodni postopki

V skladu s Konvencijo o varstvu človekovih pravic in temeljnih svoboščin, zlasti z njenim 6. členom, pogodbenica sprejme potrebne zakonodajne in druge ukrepe, da se med sodnimi postopki zagotovijo:

a) zaščita zasebnega življenja žrtev in po potrebi njihove identitete;

b) varnost in zaščita žrtev pred ustrahovanjem

v skladu s pogoji po njenem notranjem pravu, če so žrtve otroci, pa s posebno skrbnostjo za njihove potrebe in zagotavljanje njihovih pravic do posebnih zaščitnih ukrepov.

**Article 31 – Jurisdiction**

1 Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed:

- a in its territory; or
- b on board a ship flying the flag of that Party; or
- c on board an aircraft registered under the laws of that Party; or
- d by one of its nationals or by a stateless person who has his or her habitual residence in its territory, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State;

e against one of its nationals.

2 Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1 (d) and (e) of this article or any part thereof.

3 Each Party shall adopt such measures as may be necessary to establish jurisdiction over the offences referred to in this Convention, in cases where an alleged offender is present in its territory and it does not extradite him/her to another Party, solely on the basis of his/her nationality, after a request for extradition.

4 When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.

5 Without prejudice to the general norms of international law, this Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with internal law.

## Chapter VI – International co-operation and co-operation with civil society

### Article 32 – General principles and measures for international co-operation

The Parties shall co-operate with each other, in accordance with the provisions of this Convention, and through application of relevant applicable international and regional instruments, arrangements agreed on the basis of uniform or reciprocal legislation and internal laws, to the widest extent possible, for the purpose of:

- preventing and combating trafficking in human beings;
- protecting and providing assistance to victims;
- investigations or proceedings concerning criminal offences established in accordance with this Convention.

### Article 33 – Measures relating to endangered or missing persons

1 When a Party, on the basis of the information at its disposal has reasonable grounds to believe that the life, the freedom or the physical integrity of a person referred to in Article 28, paragraph 1, is in immediate danger on the territory of another Party, the Party that has the information shall, in such a case of emergency, transmit it without delay to the latter so as to take the appropriate protection measures.

2 The Parties to this Convention may consider reinforcing their co-operation in the search for missing people, in particular for missing children, if the information available leads them to believe that she/he is a victim of trafficking in human beings. To this end, the Parties may conclude bilateral or multilateral treaties with each other.

**31. člen – Jurisdikcija**

1. Pogodbenica sprejme potrebne zakonodajne in druge ukrepe, da se določi pristojnost za kaznivo dejanje v skladu s to konvencijo, če je storjeno:

- a) na njenem ozemlju;
- b) na ladji, ki pluje pod zastavo te pogodbenice;
- c) v zrakoplovu, ki je registriran po pravu pogodbenice

d) in ga je storil njen državljan ali oseba brez državljanstva, ki običajno prebiva na njenem ozemlju, če je dejanje kaznivo po kazenski zakonodaji, tam, kjer je bilo storjeno, ali če je bilo dejanje storjeno zunaj ozemljske jurisdikcije katerekoli države;

e) proti kateremu od njenih državljanov.

2. Pogodbenica lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju, odobritvi ali pristopu z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, izjavi, da si pridržuje pravico, da ne uporabi pravila o pristojnosti iz točk d in e prvega odstavka ali katerega koli njenega dela ali ga uporabi v posebnih primerih ali pod posebnimi pogoji.

3. Pogodbenica sprejme potrebne zakonodajne ukrepe, da se določi pristojnost za kazniva dejanja iz te konvencije, kadar je domnevni storilec na njenem območju in ga po zahtevi za izročitev ne izroči drugi pogodbenici izključno zaradi njegovega državljanstva.

4. Kadar več kot ena pogodbenica uveljavlja pristojnost v zvezi z domnevnim kaznivim dejanjem, določenim s to konvencijo, se vpletene pogodbenice po potrebi posvetujejo, da določijo najprimernejšo pristojnost za pregon.

5. Ne glede na splošna pravila mednarodnega prava ta konvencija ne izključuje kazenske pristojnosti, ki jo izvaja pogodbenica v skladu z notranjim pravom.

## VI. poglavje – Mednarodno sodelovanje in sodelovanje s civilno družbo

### 32. člen – Splošna načela in ukrepi za mednarodno sodelovanje

Pogodbenice sodelujejo med seboj v skladu s to konvencijo in veljavnimi mednarodnimi in regionalnimi dokumenti in dogovori, ki temeljijo na enotni in vzajemni zakonodaji in notranjem pravu v največjem mogočem obsegu, da bi:

- preprečevale trgovino z ljudmi in se bojevale proti njej;
- zagotovile zaščito in pomoč žrtvam;
- opravljale preiskave ali vodile postopke glede kaznivih dejanj, kot se določijo v skladu s to konvencijo.

### 33. člen – Ukrepi v zvezi z ogroženimi in pogrešanimi osebami

1. Kadar pogodbenica na podlagi razpoložljivih informacij utemeljeno sumi, da so na območju druge pogodbenice neposredno ogroženi življenje, svoboda ali telesna nedotakljivost osebe iz prvega odstavka 28. člena, pogodbenica, ki ima informacijo, v takem nujnem primeru to informacijo nemudoma sporoči drugi, da sprejme ustrezne zaščitne ukrepe.

2. Pogodbenice te konvencije lahko okrepijo svoje sodelovanje pri iskanju pogrešanih oseb, zlasti pogrešanih otrok, če na podlagi razpoložljivih informacij domnevajo, da je oseba žrtev trgovine z ljudmi. V ta namen lahko pogodbenice med seboj sklenejo dvo- ali večstranske sporazume.

**Article 34 – Information**

1 The requested Party shall promptly inform the requesting Party of the final result of the action taken under this chapter. The requested Party shall also promptly inform the requesting Party of any circumstances which render impossible the carrying out of the action sought or are likely to delay it significantly.

2 A Party may, within the limits of its internal law, without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter.

3 Prior to providing such information, the providing Party may request that it be kept confidential or used subject to conditions. If the receiving Party cannot comply with such request, it shall notify the providing Party, which shall then determine whether the information should nevertheless be provided. If the receiving Party accepts the information subject to the conditions, it shall be bound by them.

4 All information requested concerning Articles 13, 14 and 16, necessary to provide the rights conferred by these Articles, shall be transmitted at the request of the Party concerned without delay with due respect to Article 11 of the present Convention.

**Article 35 – Co-operation with civil society**

Each Party shall encourage state authorities and public officials, to co-operate with non-governmental organisations, other relevant organisations and members of civil society, in establishing strategic partnerships with the aim of achieving the purpose of this Convention.

**Chapter VII – Monitoring mechanism****Article 36 – Group of experts on action against trafficking in human beings**

1 The Group of experts on action against trafficking in human beings (hereinafter referred to as "GRETA"), shall monitor the implementation of this Convention by the Parties.

2 GRETA shall be composed of a minimum of 10 members and a maximum of 15 members, taking into account a gender and geographical balance, as well as a multidisciplinary expertise. They shall be elected by the Committee of the Parties for a term of office of 4 years, renewable once, chosen from amongst nationals of the States Parties to this Convention.

3 The election of the members of GRETA shall be based on the following principles:

a they shall be chosen from among persons of high moral character, known for their recognised competence in the fields of Human Rights, assistance and protection of victims and of action against trafficking in human beings or having professional experience in the areas covered by this Convention;

b they shall sit in their individual capacity and shall be independent and impartial in the exercise of their functions and shall be available to carry out their duties in an effective manner;

c no two members of GRETA may be nationals of the same State;

d they should represent the main legal systems.

4 The election procedure of the members of GRETA shall be determined by the Committee of Ministers, after consulting with and obtaining the unanimous consent of the Parties to the Convention, within a period of one year following the entry into force of this Convention. GRETA shall adopt its own rules of procedure.

**Article 37 – Committee of the Parties**

1 The Committee of the Parties shall be composed of the representatives on the Committee of Ministers of the Council of Europe of the member States Parties to the Convention and representatives of the Parties to the Convention, which are not members of the Council of Europe.

**34. člen – Informacije**

1. Zaprošena pogodbenica nemudoma obvesti pogodbenico prosilko o končnem rezultatu v zvezi z ukrepi, sprejetimi v skladu s tem poglavjem. Zaprošena pogodbenica prav tako nemudoma obvesti pogodbenico prosilko o okoliščinah, ki onemogočajo izvajanje zaprošenega ukrepa, ali če obstaja verjetnost, da bo prišlo do občutnega odlašanja.

2. Pogodbenica lahko v okviru svojega notranjega prava brez predhodnega zaprosila drugi pogodbenici pošlje informacije, ki jih je pridobila pri svojih preiskavah, če domneva, da njihovo razkritje lahko pomaga pogodbenici prejemnici pri začetku ali izvedbi preiskav ali postopkov v zvezi s kaznivimi dejanji, kot se določijo v skladu s to konvencijo, ali so lahko podlaga za zaprosilo za sodelovanje te pogodbenice po tem poglavju.

3. Preden pogodbenica zagotovi informacijo, lahko zahteva, da ostane zaupna ali se uporablja pod določenimi pogoji. Če pogodbenica prejemnica takemu zaprosilu ne more ugoditi, o tem obvesti pogodbenico, da se nato odloči, ali naj informacijo kljub temu sporoči. Če pogodbenica prejemnica sprejme informacijo pod pogoji, jo ti zavezujejo.

4. Vse zaprošene informacije v zvezi s 13., 14. in 16. členom, potrebne za zagotavljanje pravic po teh členih, se pošljejo na zaprosilo pogodbenice brez odlašanja in z ustreznim upoštevanjem 11. člena te konvencije.

**35. člen – Sodelovanje s civilno družbo**

Pogodbenica spodbuja državne organe in javne uslužbenice, da sodelujejo z nevladnimi organizacijami, drugimi ustreznimi organizacijami in člani civilne družbe pri ustanavljanju strateških partnerstev, da se doseže namen te konvencije.

**VII. poglavje – Mehanizem spremljanja****36. člen – Skupina strokovnjakov za ukrepanje proti trgovini z ljudmi**

1. Skupina strokovnjakov za ukrepanje proti trgovini z ljudmi (v nadaljevanju »GRETA«), spremlja, kako pogodbenice izvajajo to konvencijo.

2. GRETO sestavlja najmanj 10 in največ 15 članov, pri čemer se upoštevajo spolno in geografsko ravnotežje ter multidisciplinarnost strokovnega znanja. Člane izvoli Odbor pogodbenic za štiriletni mandat, ki je obnovljiv enkrat, izbrani pa so med državljani držav pogodbenic te konvencije.

3. Izvolitev članov GRETE temelji na teh načelih:

a) izbrani so med osebami z visokimi moralnimi vrednotami, ki so znani kot vrhunski strokovnjaki za človekove pravice, pomoč in zaščito žrtev ter ukrepanja proti trgovini z ljudmi ali imajo ustrezne strokovne izkušnje na področjih iz te konvencije;

b) delujejo kot posamezniki in so neodvisni in nepristranski pri opravljanju svojih nalog in jih učinkovito opravljajo;

c) v njej je lahko največ en državljan posamezne države;

d) predstavljajo glavne pravne sisteme.

4. Postopek izvolitve članov GRETE določi Odbor ministrov po posvetovanju s pogodbenicami te konvencije in po pridobitvi njihovega soglasja v enem letu po začetku veljavnosti te konvencije. GRETA sprejme svoj poslovnik.

**37. člen – Odbor pogodbenic**

1. Odbor pogodbenic sestavljajo predstavniki Odbora ministrov Sveta Evrope držav članic pogodbenic konvencije in predstavniki pogodbenic konvencije, ki niso članice Sveta Evrope.



2 The Committee of the Parties shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within a period of one year following the entry into force of this Convention in order to elect the members of GRETA. It shall subsequently meet whenever one-third of the Parties, the President of GRETA or the Secretary General so requests.

3 The Committee of the Parties shall adopt its own rules of procedure.

#### Article 38 – Procedure

1 The evaluation procedure shall concern the Parties to the Convention and be divided in rounds, the length of which is determined by GRETA. At the beginning of each round GRETA shall select the specific provisions on which the evaluation procedure shall be based.

2 GRETA shall define the most appropriate means to carry out this evaluation. GRETA may in particular adopt a questionnaire for each evaluation round, which may serve as a basis for the evaluation of the implementation by the Parties of the present Convention. Such a questionnaire shall be addressed to all Parties. Parties shall respond to this questionnaire, as well as to any other request of information from GRETA.

3 GRETA may request information from civil society.

4 GRETA may subsidiarily organise, in co-operation with the national authorities and the "contact person" appointed by the latter, and, if necessary, with the assistance of independent national experts, country visits. During these visits, GRETA may be assisted by specialists in specific fields.

5 GRETA shall prepare a draft report containing its analysis concerning the implementation of the provisions on which the evaluation is based, as well as its suggestions and proposals concerning the way in which the Party concerned may deal with the problems which have been identified. The draft report shall be transmitted for comments to the Party which undergoes the evaluation. Its comments are taken into account by GRETA when establishing its report.

6 On this basis, GRETA shall adopt its report and conclusions concerning the measures taken by the Party concerned to implement the provisions of the present Convention. This report and conclusions shall be sent to the Party concerned and to the Committee of the Parties. The report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned.

7 Without prejudice to the procedure of paragraphs 1 to 6 of this article, the Committee of the Parties may adopt, on the basis of the report and conclusions of GRETA, recommendations addressed to this Party (a) concerning the measures to be taken to implement the conclusions of GRETA, if necessary setting a date for submitting information on their implementation, and (b) aiming at promoting co-operation with that Party for the proper implementation of the present Convention.

#### Chapter VIII – Relationship with other international instruments

##### Article 39 – Relationship with the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organised crime

This Convention shall not affect the rights and obligations derived from the provisions of the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organised crime, and is intended to enhance the protection afforded by it and develop the standards contained therein.

2. Odbor pogodbenic skliče generalni sekretar Sveta Evrope. Prvi sestanek se skliče v enem letu po začetku veljavnosti te konvencije zaradi izvolitve članov GRETE. Pozneje se sestaja na zahtevo ene tretjine pogodbenic, predsednika GRETE ali generalnega sekretarja.

3. Odbor pogodbenic sprejme svoj poslovnik.

#### 38. člen – Postopek

1. Postopek ocenjevanja se nanaša na pogodbenice konvencije in poteka v krogih, katerih trajanje določi GRETA. Na začetku vsakega kroga GRETA izbere posebne določbe, ki jih bo ocenjevala.

2. GRETA določi najustreznejša sredstva za ocenjevanje. Za vsak ocenjevalni krog GRETA pripravi vprašalnik, ki je lahko podlaga za ocenjevanje o tem, kako pogodbenice izvajajo konvencijo. Tak vprašalnik se naslovi na vse pogodbenice. Pogodbenice ga izpolnijo in odgovorijo na vsa druga vprašanja GRETE.

3. GRETA lahko prosi za informacije civilno družbo.

4. Poleg tega lahko GRETA, v sodelovanju z državnimi organi in kontaktno osebo, ki jo ti pooblastijo, in po potrebi s pomočjo neodvisnih nacionalnih strokovnjakov, organizira obisk v posamezni državi. Pri obiskih lahko GRETI pomagajo strokovnjaki s posameznih področij.

5. GRETA pripravi osnutek poročila, ki vsebuje njeno analizo o izvajanju določb, ki jih je ocenjevala, pa tudi njene pobude in predloge za načine, s katerimi pogodbenica lahko rešuje ugotovljene težave. Osnutek poročila se pošlje v pripombe ocenjevani pogodbenici. GRETA jih upošteva pri oblikovanju svojega poročila.

6. Na tej podlagi GRETA sprejme svoje poročilo in ugotovitve v zvezi z ukrepi, ki jih je sprejela pogodbenica za izvajanje te konvencije. To poročilo in ugotovitve se pošljejo pogodbenici in Odboru pogodbenic. Poročilo in ugotovitve GRETE so od sprejetja dalje javno objavljene skupaj z morebitnimi pripombami pogodbenice.

7. Ne glede na postopek iz prvega do šestega odstavka lahko Odbor pogodbenic na podlagi poročila in ugotovitev GRETE sprejme priporočila, naslovljena na to pogodbenico v zvezi z: a) ukrepi, ki jih je treba sprejeti, da se izvedejo sklepi GRETE, po potrebi z določitvijo datuma, do katerega je treba sporočiti informacijo o izvajanju priporočil in b) namenom spodbujanja sodelovanja s to pogodbenico za ustrezno izvajanje te konvencije.

#### VIII. poglavje – Razmerje do drugih mednarodnih dokumentov

##### 39. člen – Razmerje do Protokola za preprečevanje, zatiranje in kaznovanje trgovine z ljudmi, zlasti ženskami in otroki, ki dopolnjuje Konvencijo Združenih narodov proti mednarodnemu organiziranemu kriminalu

Ta konvencija ne vpliva na pravice in obveznosti, ki izhajajo iz Protokola za preprečevanje, zatiranje in kaznovanje trgovine z ljudmi, zlasti ženskami in otroki, ki dopolnjuje Konvencijo Združenih narodov proti mednarodnemu organiziranemu kriminalu, in njen namen je okrepiti varstvo, ki ga zagotavlja protokol, in razviti standarde, ki jih vsebuje.

**Article 40 – Relationship with other international instruments**

1 This Convention shall not affect the rights and obligations derived from other international instruments to which Parties to the present Convention are Parties or shall become Parties and which contain provisions on matters governed by this Convention and which ensure greater protection and assistance for victims of trafficking.

2 The Parties to the Convention may conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, for purposes of supplementing or strengthening its provisions or facilitating the application of the principles embodied in it.

3 Without prejudice to the object and purpose of the present Convention and without prejudice to its full application with other Parties, Parties which are members of the European Union shall, in their mutual relations, apply Community and European Union rules in so far as there are Community or European Union rules governing the particular subject concerned and applicable to the specific case.

4 Nothing in this Convention shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

**Chapter IX – Amendments to the Convention****Article 41 – Amendments**

1 Any proposal for an amendment to this Convention presented by a Party shall be communicated to the Secretary General of the Council of Europe and forwarded by him or her to the member States of the Council of Europe, any signatory, any State Party, the European Community, to any State invited to sign this Convention in accordance with the provisions of Article 42 and to any State invited to accede to this Convention in accordance with the provisions of Article 43.

2 Any amendment proposed by a Party shall be communicated to GRETA, which shall submit to the Committee of Ministers its opinion on that proposed amendment.

3 The Committee of Ministers shall consider the proposed amendment and the opinion submitted by GRETA and, following consultation of the Parties to this Convention and after obtaining their unanimous consent, may adopt the amendment.

4 The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.

5 Any amendment adopted in accordance with paragraph 3 of this article shall enter into force on the first day of the month following the expiration of a period of one month after the date on which all Parties have informed the Secretary General that they have accepted it.

**Chapter X – Final clauses****Article 42 – Signature and entry into force**

1 This Convention shall be open for signature by the member States of the Council of Europe, the non member States which have participated in its elaboration and the European Community.

2 This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

**40. člen – Razmerje do drugih mednarodnih dokumentov**

1. Ta konvencija ne vpliva na pravice in obveznosti, ki izhajajo iz drugih mednarodnih dokumentov, katerih pogodbenice so ali bodo postale pogodbenice te konvencije, ki vsebujejo določbe o zadevah, ki jih ureja ta konvencija, in zagotavljajo boljšo zaščito in pomoč žrtvam trgovine z ljudmi.

2. Pogodbenice te konvencije lahko med seboj sklepajo dvo- in večstranske sporazume o zadevah, ki jih ureja konvencija, zaradi dopolnitve ali okrepitve določb ali omogočanja uporabe načel, ki jih vsebuje.

3. Pogodbenice, ki so članice Evropske unije, v svojih medsebojnih odnosih uporabljajo predpise Skupnosti in Evropske unije, če obstajajo predpisi Skupnosti in Evropske unije, ki urejajo posamezno področje in veljajo v posameznem primeru, ne glede na cilj in namen te konvencije in na njeno polno uporabo pri drugih pogodbenukah.

4. Ta konvencija z nobeno določbo ne posega v pravice, obveznosti in odgovornosti države ali posameznikov po mednarodnem pravu, vključno z mednarodnim humanitarnim pravom in mednarodnim pravom o človekovih pravicah, zlasti po konvenciji iz leta 1951 in protokolu iz leta 1967 o statusu beguncev, in v načelo nevračanja, kot je vsebovano v teh dokumentih.

**IX. poglavje – Spremembe konvencije****41. člen – Spremembe**

1. Vsak predlog za spremembo te konvencije, ki ga predstavi pogodbenica, se sporoči generalnemu sekretarju Sveta Evrope, ki ga pošlje državam članicam Sveta Evrope, vsaki podpisnici, vsaki državi pogodbenici, Evropski skupnosti, vsaki državi, ki je bila povabljena k podpisu te konvencije v skladu z 42. členom, in vsaki državi, ki je bila povabljena k pristopu k tej konvenciji v skladu s 43. členom.

2. Vsaka sprememba, ki jo predlaga pogodbenica, se sporoči GRETI, ki Odboru ministrov pošlje svoje mnenje o predlagani spremembi.

3. Odbor ministrov preuči predlagano spremembo in mnenje GRETE in po posvetovanju s podpisnicami te konvencije ter ob prejemu njihovega soglasja lahko sprejme spremembo.

4. Besedilo spremembe, ki ga sprejme Odbor ministrov v skladu s tretjim odstavkom, se pošlje pogodbenicam v sprejetje.

5. Sprememba, sprejeta v skladu s tretjim odstavkom, začne veljati prvi dan meseca po poteku enega meseca po datumu, ko so vse pogodbenice obvestile generalnega sekretarja, da so jo sprejele.

**X. poglavje – Končne določbe****42. člen – Podpis in začetek veljavnosti**

1. Konvencija je na voljo za podpis državam članicam Sveta Evrope, državam nečlanicam, ki so sodelovale pri njeni pripravi, in Evropski skupnosti.

2. Konvencijo je treba ratificirati, sprejeti ali odobriti. Listine o ratifikaciji, sprejetju ali odobritvi se hranijo pri generalnem sekretarju Sveta Evrope.

3 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 10 Signatories, including at least 8 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.

4 In respect of any State mentioned in paragraph 1 or the European Community, which subsequently expresses its consent to be bound by it, 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 the deposit of its instrument of ratification, acceptance or approval.

#### Article 43 – Accession to the Convention

1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, after consultation of the Parties to this Convention and obtaining their unanimous consent, invite any non-member State of the Council of Europe, which has not participated in the elaboration of the Convention, to accede to this Convention by a decision taken by the majority provided for in Article 20 *d.* of the Statute of the Council of Europe, and by unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.

2 In respect of any acceding State, 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 deposit of the instrument of accession with the Secretary General of the Council of Europe.

#### Article 44 – Territorial application

1 Any State or the European Community 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.

2 Any Party 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 and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. 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.

3 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 of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

#### Article 45 – Reservations

No reservation may be made in respect of any provision of this Convention, with the exception of the reservation of Article 31, paragraph 2.

#### Article 46 – Denunciation

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

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

#### Article 47 – Notification

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, any State signatory, any State Party, the European Community, to any State invited to sign this Convention in accordance with the provisions of Article 42 and to any State invited to accede to this Convention in accordance with the provisions of Article 43 of:

3. Konvencija začne veljati prvi dan meseca po poteku treh mesecev po dnevu, ko je deset podpisnic, od katerih je najmanj osem držav članic Sveta Evrope, izrazilo soglasje, da jih konvencija zavezuje v skladu s prejšnjim odstavkom.

4. Za državo iz prvega odstavka ali za Evropsko skupnost, ki pozneje izrazi soglasje, da jo konvencija zavezuje, začne veljati prvi dan meseca po poteku treh mesecev po dnevu deponiranja njene listine o ratifikaciji, sprejetju ali odobritvi.

#### 43. člen – Pristop h konvenciji

1. Po začetku veljavnosti konvencije lahko Odbor ministrov Sveta Evrope po posvetovanju s pogodbenicami in ob pridobitvi njihovega soglasja povabi katero koli državo nečlanico Sveta Evrope, ki ni sodelovala pri pripravi konvencije, da pristopi k njej na podlagi sklepa, ki ga sprejme večina, kot določa točka d 20. člena Statuta Sveta Evrope, in soglasno sprejetega sklepa predstavnikov držav pogodbenic, ki imajo pravico biti zastopane v Odboru ministrov.

2. Za državo, ki h konvenciji pristopi, začne veljati prvi dan meseca po poteku treh mesecev po dnevu deponiranja listine o pristopu pri generalnem sekretarju Sveta Evrope.

#### 44. člen – Ozemeljska uporaba

1. Država ali Evropska skupnost lahko ob podpisu ali deponiranju listine o ratifikaciji, sprejetju, odobritvi ali pristopu določi območje ali območja, na katerih se ta konvencija uporablja.

2. Pogodbenica lahko kadar koli pozneje z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, razširi uporabo konvencije na katero koli drugo območje, ki je določeno v izjavi in za mednarodne odnose katerega je odgovorna ali v imenu katerega je pooblaščen prevzemati obveznosti. Za tako območje začne konvencija veljati prvi dan meseca po poteku treh mesecev po dnevu, ko je generalni sekretar prejel tako izjavo.

3. Z uradnim obvestilom, naslovljenim na generalnega sekretarja, je mogoče umakniti vsako izjavo, dano po prejšnjih dveh odstavkih za katero koli območje, določeno v taki izjavi. Umik začne veljati prvi dan meseca po poteku treh mesecev po dnevu, ko je generalni sekretar prejel tako uradno obvestilo.

#### 45. člen – Pridrški

K tej konvenciji niso dopustni nobeni pridržki, razen pridržka k drugemu odstavku 31. člena.

#### 46. člen – Odpoved

1. Pogodbenica lahko konvencijo kadar koli odpove z uradnim obvestilom, naslovljenim na generalnega sekretarja Sveta Evrope.

2. Taka odpoved začne veljati prvi dan meseca po poteku treh mesecev po dnevu, ko je generalni sekretar prejel uradno obvestilo.

#### 47. člen – Uradno obvestilo

Generalni sekretar Sveta Evrope uradno obvesti države članice Sveta Evrope, vsako državo podpisnico, vsako državo pogodbenico, Evropsko skupnost, vsako drugo državo, ki je bila povabljen, da podpiše konvencijo v skladu z 42. členom, in vsako državo, ki je bila povabljen, da pristopi h konvenciji v skladu s 43. členom, o:

a any signature;  
 b the deposit of any instrument of ratification, acceptance, approval or accession;  
 c any date of entry into force of this Convention in accordance with Articles 42 and 43;  
 d any amendment adopted in accordance with Article 41 and the date on which such an amendment enters into force;  
 e any denunciation made in pursuance of the provisions of Article 46;  
 f any other act, notification or communication relating to this Convention;  
 g any reservation made under Article 45.

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

Done at Warsaw, this 16<sup>th</sup> day of May 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, to the non-member States which have participated in the elaboration of this Convention, to the European Community and to any State invited to accede to this Convention.

a) vsakem podpisu,  
 b) deponiranju vsake listine o ratifikaciji, sprejetju, odobritvi ali pristopu,  
 c) vsakem datumu začetka veljavnosti konvencije v skladu z 42. ali 43. členom,  
 d) vsaki spremembi, sprejeti v skladu z 41. členom, in datumu začetka veljavnosti te spremembe,  
 e) vsaki odpovedi, dani na podlagi 46. člena,  
 f) vsakem drugem dejanju, uradnem obvestilu v zvezi s to konvencijo,  
 g) vsakem pridržku po 45. členu.

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

Sklenjeno v Varšavi 16. maja 2005 v angleškem in francoskem jeziku, pri čemer sta obe besedili enako verodostojni, v enem samem izvodu, ki se hrani v arhivu Sveta Evrope. Generalni sekretar Sveta Evrope pošlje overjeno kopijo vsaki državi članici Sveta Evrope, državam nečlanicam, ki so sodelovale pri pripravi konvencije, Evropski skupnosti in vsaki državi, ki je povabljen, da pristopi k njej.

### 3. člen

Za izvajanje konvencije skrbi Ministrstvo za notranje zadeve v sodelovanju z Ministrstvom za delo, družino in socialne zadeve in Ministrstvom za pravosodje.

### 4. člen

(1) Ministrstvo za notranje zadeve in Ministrstvo za delo, družino in socialne zadeve sodelujeta z nevladnimi organizacijami in humanitarnimi organizacijami na področju izvajanja 5., 12., 13., 14., 16. ter 28. člena te konvencije. Nevladne organizacije, registrirane v Republiki Sloveniji ter organizacije, ki so pridobile status humanitarne organizacije v Republiki Sloveniji, katere se ukvarjajo z varstvom človekovih pravic ali temeljnih svoboščin, zlasti s področja preprečevanja trgovine z ljudmi ali pomoči žrtvam trgovine z ljudmi, lahko sodelujejo z navedenima ministrstvom na področjih oskrbe žrtev trgovine z ljudmi, odkrivanja žrtev trgovine z ljudmi, namestitve žrtev v varnem prostoru, krizne namestitve žrtev, pomoči oziroma zaščiti žrtev v predkazenskih, kazenskih in sodnih postopkih, pomoči pri dostopu do trga dela, poklicnega usposabljanja in izobraževanja, pomoči pri urejanju statusa v Republiki Sloveniji, informiranja in osveščanja ciljnih populacij, ter vračanja žrtve v matično državo.

(2) Organizacije, ki bodo sodelovale pri izvajanju vrst pomoči iz prejšnjega odstavka, se izberejo z javnima razpisoma, ki ju ločeno izvedeta Ministrstvo za notranje zadeve in Ministrstvo za delo, družino in socialne zadeve in tudi odločita o izbiri organizacij ter ali bo rok nudenja storitev pomoči dve leti ali tri leta. Vsebina javnih razpisov mora biti v skladu s prejšnjim stavkom, prejšnjim odstavkom in podzakonskim aktom, izdanim na podlagi četrtega odstavka.

(3) Osebe iz izbranih organizacij, ki bodo sodelovale pri nujenju pomoči iz prvega odstavka tega člena, podajo predhodno pisno izjavo, da bodo pri opravljanju pomoči delovale v skladu s sklenjeno pogodbo na podlagi razpisov iz prejšnjega odstavka, delovale po predpisih o varovanju tajnosti osebnih in tajnih podatkov, varovale dostojanstvo in zasebnost žrtev trgovine z ljudmi ter delovale z vidika najvišje koristi žrtev trgovine z ljudmi.

(4) Ministrstvo za notranje zadeve in Ministrstvo za delo, družino in socialne zadeve krijeta stroške za izvedbo obveznosti iz pogodbe na podlagi razpisov iz svojih proračunskih postavk. Morebitne dodatno potrebne stroške za izvajanje pomoči žrtvam trgovine z ljudmi iz prvega odstavka tega člena organizacijam izplačata Ministrstvo za notranje zadeve in Ministrstvo za delo, družino in socialne zadeve iz svojih proračunskih postavk, po pravilniku, ki ga skupaj izdeta minister, pristojen za notranje zadeve in minister, pristojen za delo, družino in socialne zadeve po predhodnem soglasju ministra, pristojnega za finance.

### 5. člen

Republika Slovenija ob deponiranju svoje listine o ratifikaciji Konvencije Sveta Evrope o ukrepanju proti trgovini z ljudmi generalnemu sekretarju Sveta Evrope sporoči naslednjo izjavo:

»Skladno z drugim odstavkom 31. člena konvencije, Republika Slovenija izjavlja, da si pridržuje pravico, da ne bo uporabljala pravila o pristojnosti iz točke d prvega odstavka 31. člena, glede na to, da ne more zagotoviti kazenskega pregona osebe brez državljanstva, ki običajno prebiva na njenem ozemlju, če je bilo kaznivo dejanje storjeno zunaj ozemeljske jurisdikcije katerekoli države.«

### 6. člen

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

Št. 212-05/09-2/15  
 Ljubljana, dne 15. julija 2009  
 EPA 741-IV

Državni zbor  
 Republike Slovenije  
**dr. Pavel Gantar** l.r.  
 Predsednik



**62. Zakon o ratifikaciji Konvencije o kasetnem strelivu (MKKS)**

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

**U K A Z****o razglasitvi Zakona o ratifikaciji Konvencije o kasetnem strelivu (MKKS)**

Razglašam Zakon o ratifikaciji Konvencije o kasetnem strelivu (MKKS), ki ga je sprejel Državni zbor Republike Slovenije na seji 15. julija 2009.

Št. 003-02-7/2009-16  
Ljubljana, dne 23. julija 2009

**dr. Danilo Türk** l.r.  
Predsednik  
Republike Slovenije

**Z A K O N****O RATIFIKACIJI KONVENCIJE O KASETNEM STRELIVU (MKKS)**

## 1. člen

Ratificira se Konvencija o kasetnem strelivu, sprejeta v Dublinu 30. maja 2008.

## 2. člen

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

**CONVENTION  
ON CLUSTER MUNITIONS**

*The States Parties to this Convention,*

*Deeply concerned* that civilian populations and individual civilians continue to bear the brunt of armed conflict,

*Determined* to put an end for all time to the suffering and casualties caused by cluster munitions at the time of their use, when they fail to function as intended or when they are abandoned,

*Concerned* that cluster munition remnants kill or maim civilians, including women and children, obstruct economic and social development, including through the loss of livelihood, impede post-conflict rehabilitation and reconstruction, delay or prevent the return of refugees and internally displaced persons, can negatively impact on national and international peace-building and humanitarian assistance efforts, and have other severe consequences that can persist for many years after use,

*Deeply concerned* also at the dangers presented by the large national stockpiles of cluster munitions retained for operational use and *determined* to ensure their rapid destruction,

*Believing* it necessary to contribute effectively in an efficient, coordinated manner to resolving the challenge of removing cluster munition remnants located throughout the world, and to ensure their destruction,

*Determined* also to ensure the full realisation of the rights of all cluster munition victims and *recognising* their inherent dignity,

*Resolved* to do their utmost in providing assistance to cluster munition victims, including medical care, rehabilitation and psychological support, as well as providing for their social and economic inclusion,

*Recognising* the need to provide age- and gender-sensitive assistance to cluster munition victims and to address the special needs of vulnerable groups,

**KONVENCIJA  
O KASETNEM STRELIVU**

*Države pogodbenice te konvencije so se*

*globoko zaskrbljene*, ker so civilno prebivalstvo in posamezniki še vedno najbolj prizadeti v oboroženem spopadu,

*odločene*, da bodo za vedno odpravile trpljenje in preprečile žrtve, ki jih povzroča kasetno strelivo ob uporabi ali ko ne deluje, kot je predvideno, ali je zapuščeno,

*zaskrbljene*, ker ostanki kasetnega streliva ubijajo ali poškodujejo civiliste, tudi ženske in otroke, ovirajo gospodarski in družbeni razvoj, vključno z izgubo sredstev za preživljanje, ovirajo prenavo in obnovo po spopadih, preložijo ali preprečijo vračanje beguncev in razseljenih oseb, lahko škodljivo vplivajo na državna in mednarodna prizadevanja pri vzpostavljanju miru in zagotavljanju humanitarne pomoči in imajo druge hude posledice še vrsto let po uporabi,

*globoko zaskrbljene* tudi zaradi nevarnosti, ki grozi zaradi velikih zalog kasetnega streliva, ki ga države obdržijo za operativno uporabo, in *odločene* zagotoviti njihovo hitro uničenje,

*v prepričanju*, da je treba dejansko prispevati k učinkovitemu in usklajenemu reševanju težav pri odstranjevanju ostankov kasetnega streliva po vsem svetu in zagotoviti njegovo uničenje,

*odločene* tudi zagotoviti polno uresničevanje pravic vseh žrtev kasetnega streliva in *priznavajo* njihovo osebno dostojanstvo,

*odločene*, da bodo storile vse, kar je v njihovi moči, pri zagotavljanju pomoči žrtvam kasetnega streliva, vključno z zdravstveno oskrbo, rehabilitacijo in psihološko podporo, kakor tudi pri zagotavljanju njihovega vključevanja v družbeno in gospodarsko življenje,

*ob priznavanju* potrebe po zagotavljanju pomoči žrtvam kasetnega streliva glede na starost in spol in po obravnavanju posebnih potreb ranljivih skupin,

\* Besedilo konvencije v arabskem, kitajskem, francoskem, ruskem in španskem izvorniku je na vpogled na Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

*Bearing in mind* the Convention on the Rights of Persons with Disabilities which, *inter alia*, requires that States Parties to that Convention undertake to ensure and promote the full realisation of all human rights and fundamental freedoms of all persons with disabilities without discrimination of any kind on the basis of disability,

*Mindful* of the need to coordinate adequately efforts undertaken in various fora to address the rights and needs of victims of various types of weapons, and *resolved* to avoid discrimination among victims of various types of weapons,

*Reaffirming* that in cases not covered by this Convention or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law, derived from established custom, from the principles of humanity and from the dictates of public conscience,

*Resolved* also that armed groups distinct from the armed forces of a State shall not, under any circumstances, be permitted to engage in any activity prohibited to a State Party to this Convention,

*Welcoming* the very broad international support for the international norm prohibiting anti-personnel mines, enshrined in the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction,

*Welcoming* also the adoption of the Protocol on Explosive Remnants of War, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, and its entry into force on 12 November 2006, and *wishing* to enhance the protection of civilians from the effects of cluster munition remnants in post-conflict environments,

*Bearing in mind* also United Nations Security Council Resolution 1325 on women, peace and security and United Nations Security Council Resolution 1612 on children in armed conflict,

*Welcoming* further the steps taken nationally, regionally and globally in recent years aimed at prohibiting, restricting or suspending the use, stockpiling, production and transfer of cluster munitions,

*Stressing* the role of public conscience in furthering the principles of humanity as evidenced by the global call for an end to civilian suffering caused by cluster munitions and *recognising* the efforts to that end undertaken by the United Nations, the International Committee of the Red Cross, the Cluster Munition Coalition and numerous other non-governmental organisations around the world,

*Reaffirming* the Declaration of the Oslo Conference on Cluster Munitions, by which, *inter alia*, States recognised the grave consequences caused by the use of cluster munitions and committed themselves to conclude by 2008 a legally binding instrument that would prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and would establish a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation for victims, clearance of contaminated areas, risk reduction education and destruction of stockpiles,

*Emphasising* the desirability of attracting the adherence of all States to this Convention, and *determined* to work strenuously towards the promotion of its universalisation and its full implementation,

*Basing* themselves on the principles and rules of international humanitarian law, in particular the principle that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited, and the rules that the parties to a conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly direct their operations against military objectives only, that in the conduct of military operations constant care shall be taken to spare the civilian population, civilians and civilian objects and that the civilian population and individual civilians enjoy general protection against dangers arising from military operations,

**HAVE AGREED** as follows:

*obupoštevanju* Konvencije o pravicah invalidov, ki med drugim od njenih držav pogodbenic zahteva, da se zavežejo, da bodo zagotavljale in spodbujale polno uresničevanje človekovih pravic in temeljnih svoboščin vseh invalidov brez diskriminacije zaradi invalidnosti,

*obupoštevanju* potrebe po ustreznem usklajevanju prizadevanj na različnih forumih za obravnavanje pravic in potreb žrtev različnih vrst orožja in *odločene* preprečevati diskriminacijo med žrtvami različnih vrst orožja,

*ob ponovni potrditvi*, da v primerih, ki niso zajeti v tej konvenciji ali drugih mednarodnih sporazumih, civilisti in borci ostajajo pod zaščito in pristojnostjo načel mednarodnega prava, ki izhajajo iz ustaljene prakse, načel človečnosti in zapovedi javne vesti,

*odločene* tudi, da se oboroženim skupinam v primerjavi z oboroženimi silami države pod nobenim pogojem ne dovoli, da izvajajo dejavnosti, ki so prepovedane državi pogodbenici te konvencije,

*ob pozdravljanju* zelo široke mednarodne podpore mednarodnim predpisom, ki prepovedujejo protipehotne mine in so izraženi v Konvenciji o prepovedi uporabe, kopičenja zalog, proizvodnje in prenosa protipehotnih min in o njihovem uničenju iz leta 1997,

*ob pozdravljanju* tudi sprejetja Protokola o eksplozivnih ostankih vojne, priloženega Konvenciji o prepovedi ali omejitvi uporabe nekaterih vrst klasičnega orožja, za katere se lahko šteje, da imajo čezmerne travmatične učinke ali da glede ciljev delujejo enako, in njegovega začetka veljavnosti 12. novembra 2006 ter v želji izboljšati zaščito civilistov pred učinki ostankov kasetnega streliva v okoljih po spopadu,

*obupoštevanju* tudi Resolucije Varnostnega sveta Združenih narodov 1325 o ženskah, miru in varnosti in Resolucije Varnostnega sveta Združenih narodov 1612 o otrocih v oboroženih spopadih,

*ob pozdravljanju* ukrepov, sprejetih v zadnjih letih na državni, regionalni in svetovni ravni za prepoved, omejevanje ali začasno prenehanje uporabe, kopičenja zalog, proizvodnje in prenosa kasetnega streliva,

*ob poudarjanju* vloge javne vesti pri uveljavljanju načel človečnosti, kakor je bila izražena v svetovnem pozivu za končanje trpljenja civilistov, ki ga povzroča kasetno strelivo, in *ob priznavanju* prizadevanj Združenih narodov, Mednarodnega odbora Rdečega križa, Koalicije proti kasetnemu strelivu in številnih drugih nevladnih organizacij po svetu za doseg tega cilja,

*ob ponovni potrditvi* Deklaracije konference iz Osla o kasetnem strelivu, s katero so države med drugim priznale težke posledice uporabe kasetnega streliva in se zavezale, da bodo do leta 2008 sklenile pravno zavezujoč akt, ki bo prepovedoval uporabo, proizvodnjo, prenos in kopičenje zalog kasetnega streliva, ki povzroča nesprejemljivo škodo civilistom, in bodo vzpostavile okvir za sodelovanje in pomoč, ki zagotavlja ustrezno oskrbo in rehabilitacijo za žrtve, čiščenje onesnaženih območij, izobraževanje o zmanjševanju tveganja in uničenje zalog,

*ob poudarjanju* želje, da se k spoštovanju konvencije pritegnejo vse države, in *odločene*, da si bodo prizadevale za spodbujanje njene vsesplošne uporabe in izvajanja v celoti,

*izhajajoč* iz načel in pravil mednarodnega humanitarnega prava, zlasti načela, da pravica strani v oboroženem spopadu do izbire načinov ali sredstev vojskovanja ni neomejena, in iz pravil, da morajo strani v spopadu vedno razlikovati med civilnim prebivalstvom in borci ter med civilnimi objekti in vojaškimi cilji in v skladu s tem usmeriti svoje operacije samo proti vojaškemu cilju, da je treba pri izvajanju vojaških operacij nenehno skrbeti za to, da se prizanaša civilnemu prebivalstvu, civilistom in civilnim objektom in da civilno prebivalstvo in posamezniki uživajo splošno zaščito pred nevarnostmi, ki so posledica vojaških operacij,

**DOGOVORILE:**

## Article 1

*General obligations and scope of application*

1. Each State Party undertakes never under any circumstances to:

- (a) Use cluster munitions;
- (b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions;
- (c) Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention.

2. Paragraph 1 of this Article applies, *mutatis mutandis*, to explosive bomblets that are specifically designed to be dispersed or released from dispensers affixed to aircraft.

3. This Convention does not apply to mines.

## Article 2

*Definitions*

For the purposes of this Convention:

1. "**Cluster munition victims**" means all persons who have been killed or suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their affected families and communities;

2. "**Cluster munition**" means a conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20 kilograms, and includes those explosive submunitions. It does not mean the following:

(a) A munition or submunition designed to dispense fares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;

(b) A munition or submunition designed to produce electrical or electronic effects;

(c) A munition that, in order to avoid indiscriminate area effects and the risks posed by unexploded submunitions, has all of the following characteristics:

(i) Each munition contains fewer than ten explosive submunitions;

(ii) Each explosive submunition weighs more than four kilograms;

(iii) Each explosive submunition is designed to detect and engage a single target object;

(iv) Each explosive submunition is equipped with an electronic self-destruction mechanism;

(v) Each explosive submunition is equipped with an electronic self-deactivating feature;

3. "**Explosive submunition**" means a conventional munition that in order to perform its task is dispersed or released by a cluster munition and is designed to function by detonating an explosive charge prior to, on or after impact;

4. "**Failed cluster munition**" means a cluster munition that has been fired, dropped, launched, projected or otherwise delivered and which should have dispersed or released its explosive submunitions but failed to do so;

5. "**Unexploded submunition**" means an explosive submunition that has been dispersed or released by, or otherwise separated from, a cluster munition and has failed to explode as intended;

6. "**Abandoned cluster munitions**" means cluster munitions or explosive submunitions that have not been used and that have been left behind or dumped, and that are no longer under the control of the party that left them behind or dumped them. They may or may not have been prepared for use;

7. "**Cluster munition remnants**" means failed cluster munitions, abandoned cluster munitions, unexploded submunitions and unexploded bomblets;

8. "**Transfer**" involves, in addition to the physical movement of cluster munitions into or from national territory, the transfer of title to and control over cluster munitions, but does not involve the transfer of territory containing cluster munition remnants;

## 1. člen

*Splošne obveznosti in področje uporabe*

1. Država pogodbenica se zavezuje, da ne bo nikoli pod nobenim pogojem:

(a) uporabila kasetnega streliva;

(b) razvijala, proizvajala, drugače pridobivala, kopičila zalog, obdržala ali neposredno ali posredno na kogar koli prenesla kasetnega streliva;

(c) komur koli pomagala pri izvajanju dejavnosti, ki je državi pogodbenici po tej konvenciji prepovedana, ga k njej spodbujala ali napeljevala.

2. Prvi odstavek se uporablja smiselno za eksplozivne bombice, ki so posebej zasnovane za to, da se razpršijo ali sprostijo iz razpršilnih ohišij, pritrjenih na zrakoplov.

3. Ta konvencija se ne uporablja za mine.

## 2. člen

*Pomen izrazov*

V tej konvenciji:

1. »**žrtve kasetnega streliva**« pomeni vse osebe, ki so bile zaradi uporabe kasetnega streliva ubite, telesno ali duševno poškodovane, imele materialno izgubo, bile odrinjene na rob družbe ali katerih uresničevanje pravic je bilo bistveno omejeno. Vključuje osebe, ki jih je kasetno strelivo neposredno prizadelo, kakor tudi njihove družine in skupnosti;

2. »**kasetno strelivo**« pomeni konvencionalno strelivo, ki je zasnovano tako, da razprši ali sprosti eksplozivno podstrelivo, ki vsako tehta manj kot 20 kilogramov, in vključuje eksplozivno podstrelivo. Ne pomeni:

(a) strelivo ali podstrelivo, namenjeno za razprševanje osvetljujeočih, dimnih, pirotehničnih teles ali teles za motenje, ali strelivo, namenjeno izključno za zračno obrambo;

(b) strelivo ali podstrelivo, namenjeno za ustvarjanje električnih ali elektronskih učinkov;

(c) strelivo, ki ima, da bi preprečilo nediskriminatorne učinke na določenem območju in nevarnost neeksplodiranega podstreliva, vse te značilnosti:

(i) vsako strelivo vsebuje manj kot deset eksplozivnih podstreliv;

(ii) vsako eksplozivno podstrelivo tehta več kot štiri kilograme;

(iii) vsako eksplozivno podstrelivo je namenjeno odkrivanju posameznega cilja in napadu nanj;

(iv) vsako eksplozivno podstrelivo je opremljeno z elektronskim mehanizmom za samouničenje;

(v) vsako eksplozivno podstrelivo je opremljeno z elektronskim delom za samoonesposobitev;

3. »**eksplozivno podstrelivo**« pomeni konvencionalno strelivo, ki ga, da bi opravilo svojo nalogo, razprši ali sprosti kasetno strelivo in je zasnovano tako, da sproži eksplozivno polnjenje pred zadetkom, ob ali po njem;

4. »**neeksplodirano kasetno strelivo**« pomeni kasetno strelivo, ki je bilo sproženo, odvrženo, lansirano, izstreljeno ali drugače poslano in bi moralo razpršiti ali sprostiti svoje eksplozivno podstrelivo, vendar ga ni;

5. »**neeksplodirano podstrelivo**« pomeni eksplozivno podstrelivo, ki je bilo razpršeno ali sproščeno ali je bilo drugače ločeno od kasetnega streliva in ni eksplodiralo, kot je bilo predvideno;

6. »**zapuščeno kasetno strelivo**« pomeni neuporabljeno kasetno strelivo ali eksplozivno podstrelivo, ki je bilo zapuščeno ali zavrženo in ni več pod nadzorom strani, ki ga je zapustila ali zavrgla. Lahko je pripravljeno za uporabo ali ne;

7. »**ostanki kasetnega streliva**« pomeni neeksplodirano kasetno strelivo, zapuščeno kasetno strelivo, neeksplodirano podstrelivo in neeksplodirane bombice;

8. »**prenos**« poleg fizičnega premika kasetnega streliva na državno ozemlje ali z njega vključuje prenos lastninske pravice do kasetnega streliva in nadzora nad njim, vendar ne vključuje prenosa ozemlja, na katerem so ostanki kasetnega streliva;

9. **“Self-destruction mechanism”** means an incorporated automatically-functioning mechanism which is in addition to the primary initiating mechanism of the munition and which secures the destruction of the munition into which it is incorporated;

10. **“Self-deactivating”** means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component, for example a battery, that is essential to the operation of the munition;

11. **“Cluster munition contaminated area”** means an area known or suspected to contain cluster munition remnants;

12. **“Mine”** means a munition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle;

13. **“Explosive bomblet”** means a conventional munition, weighing less than 20 kilograms, which is not self-propelled and which, in order to perform its task, is dispersed or released by a dispenser, and is designed to function by detonating an explosive charge prior to, on or after impact;

14. **“Dispenser”** means a container that is designed to disperse or release explosive bomblets and which is affixed to an aircraft at the time of dispersal or release;

15. **“Unexploded bomblet”** means an explosive bomblet that has been dispersed, released or otherwise separated from a dispenser and has failed to explode as intended.

### Article 3

#### *Storage and stockpile destruction*

1. Each State Party shall, in accordance with national regulations, separate all cluster munitions under its jurisdiction and control from munitions retained for operational use and mark them for the purpose of destruction.

2. Each State Party undertakes to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article as soon as possible but not later than eight years after the entry into force of this Convention for that State Party. Each State Party undertakes to ensure that destruction methods comply with applicable international standards for protecting public health and the environment.

3. If a State Party believes that it will be unable to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article within eight years of entry into force of this Convention for that State Party it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the destruction of such cluster munitions by a period of up to four years. A State Party may, in exceptional circumstances, request additional extensions of up to four years. The requested extensions shall not exceed the number of years strictly necessary for that State Party to complete its obligations under paragraph 2 of this Article.

4. Each request for an extension shall set out:

(a) The duration of the proposed extension;

(b) A detailed explanation of the proposed extension, including the financial and technical means available to or required by the State Party for the destruction of all cluster munitions referred to in paragraph 1 of this Article and, where applicable, the exceptional circumstances justifying it;

(c) A plan for how and when stockpile destruction will be completed;

(d) The quantity and type of cluster munitions and explosive submunitions held at the entry into force of this Convention for that State Party and any additional cluster munitions or explosive submunitions discovered after such entry into force;

(e) The quantity and type of cluster munitions and explosive submunitions destroyed during the period referred to in paragraph 2 of this Article; and

(f) The quantity and type of cluster munitions and explosive submunitions remaining to be destroyed during the proposed extension and the annual destruction rate expected to be achieved.

9. **»mehanizem za samouničenje«** pomeni vgrajen samodejno delujoč mehanizem, ki je dodan primarnemu sprožilnemu mehanizmu streliva in zagotovi uničenje streliva, v katero je vgrajen;

10. **»samoonesposobitev«** pomeni samodejno povzročitev nedelovanja streliva z nepovratno izrabo sestavnega dela, na primer baterije, ki je bistven za delovanje streliva;

11. **»območje, onesnaženo s kasetnim strelivom,«** pomeni območje, za katero se ve ali sumi, da so na njem ostanki kasetnega streliva;

12. **»mina«** pomeni sredstvo, ki je zasnovano tako, da se položi v zemljo ali pod drugo površino, nanjo ali v njeno bližino in da eksplodira zaradi prisotnosti ali bližine osebe ali vozila ali stika z njima;

13. **»eksplozivna bombica«** pomeni konvencionalno strelivo, ki tehta manj kot 20 kilogramov, nima lastnega pogona in jo, da bi opravila svojo nalogo, razprši ali sprosti razpršilno ohišje, ter je zasnovana tako, da deluje s sprožitvijo eksplozivnega polnjenja pred zadetkom, ob ali po njem;

14. **»razpršilno ohišje«** pomeni zabojnik, ki je namenjen za razprševanje ali sproščanje eksplozivnih bombic in je ob razpršitvi ali sprostitvi pritrjeno na zrakoplov;

15. **»neeksplozirana bombica«** pomeni eksplozivno bombico, ki je bila razpršena, sproščena ali drugače ločena od razpršilnega ohišja in ni eksplodirala, kot je bilo predvideno.

### 3. člen

#### *Shranjevanje in uničevanje zalog*

1. V skladu z notranjimi predpisi država pogodbenica loči vse kasetno strelivo, ki je v njeni pristojnosti in pod njenim nadzorom, od streliva, ki ga obdrži za operativno uporabo, in ga označi za uničenje.

2. Država pogodbenica se zavezuje, da bo čim prej, vendar najpozneje osem let po začetku veljavnosti konvencije za to državo pogodbenico, uničila ali zagotovila uničenje vsega kasetnega streliva iz prvega odstavka. Država pogodbenica se zavezuje, da bo zagotovila skladnost načinov uničenja z veljavnimi mednarodnimi standardi za varstvo javnega zdravja in okolja.

3. Če država pogodbenica meni, da ne bo mogla uničiti ali zagotoviti uničenja vsega kasetnega streliva iz prvega odstavka v osmih letih po začetku veljavnosti konvencije za to državo pogodbenico, lahko zasedanju držav pogodbenic ali pregledni konferenci predloži zaprosilo za podaljšanje roka za dokončanje uničenja takega kasetnega streliva za največ štiri leta. Država pogodbenica lahko v izjemnih okoliščinah zaprosi za dodatno podaljšanje roka za največ štiri leta. Zaprošeno podaljšanje roka ne sme preseči števila let, ki so nujno potrebna za to državo pogodbenico, da izpolni svoje obveznosti po drugem odstavku.

4. V vsakem zaprosilu za podaljšanje roka se navedejo:

(a) trajanje predlaganega podaljšanja;

(b) podrobna razlaga predlaganega podaljšanja, vključno s finančnimi in tehničnimi sredstvi, ki so na voljo ali jih zahteva država pogodbenica za uničenje vsega kasetnega streliva iz prvega odstavka, in po potrebi izjemne okoliščine, ki to upravičujejo;

(c) načrt, kako in kdaj bo dokončano uničenje zalog;

(d) količina in vrsta kasetnega streliva in eksplozivnega podstreliva, ki ga ima država pogodbenica na začetku veljavnosti konvencije za to državo pogodbenico, in kakršno koli dodatno kasetno strelivo ali eksplozivno podstrelivo, ki se odkrije po začetku veljavnosti;

(e) količina in vrsta kasetnega streliva in eksplozivnega podstreliva, uničenega v obdobju iz drugega odstavka, in

(f) količina in vrsta kasetnega streliva in eksplozivnega podstreliva, ki preostane za uničenje med predlaganim podaljšanjem roka, ter pričakovana uničena letna količina.



5. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors referred to in paragraph 4 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension. The States Parties may decide to grant a shorter extension than that requested and may propose benchmarks for the extension, as appropriate. A request for an extension shall be submitted a minimum of nine months prior to the Meeting of States Parties or the Review Conference at which it is to be considered.

6. Notwithstanding the provisions of Article 1 of this Convention, the retention or acquisition of a limited number of cluster munitions and explosive submunitions for the development of and training in cluster munition and explosive submunition detection, clearance or destruction techniques, or for the development of cluster munition counter-measures, is permitted. The amount of explosive submunitions retained or acquired shall not exceed the minimum number absolutely necessary for these purposes.

7. Notwithstanding the provisions of Article 1 of this Convention, the transfer of cluster munitions to another State Party for the purpose of destruction, as well as for the purposes described in paragraph 6 of this Article, is permitted.

8. States Parties retaining, acquiring or transferring cluster munitions or explosive submunitions for the purposes described in paragraphs 6 and 7 of this Article shall submit a detailed report on the planned and actual use of these cluster munitions and explosive submunitions and their type, quantity and lot numbers. If cluster munitions or explosive submunitions are transferred to another State Party for these purposes, the report shall include reference to the receiving party. Such a report shall be prepared for each year during which a State Party retained, acquired or transferred cluster munitions or explosive submunitions and shall be submitted to the Secretary-General of the United Nations no later than 30 April of the following year.

#### Article 4

##### *Clearance and destruction of cluster munition remnants and risk reduction education*

1. Each State Party undertakes to clear and destroy, or ensure the clearance and destruction of, cluster munition remnants located in cluster munition contaminated areas under its jurisdiction or control, as follows:

(a) Where cluster munition remnants are located in areas under its jurisdiction or control at the date of entry into force of this Convention for that State Party, such clearance and destruction shall be completed as soon as possible but not later than ten years from that date;

(b) Where, after entry into force of this Convention for that State Party, cluster munitions have become cluster munition remnants located in areas under its jurisdiction or control, such clearance and destruction must be completed as soon as possible but not later than ten years after the end of the active hostilities during which such cluster munitions became cluster munition remnants; and

(c) Upon fulfilling either of its obligations set out in subparagraphs (a) and (b) of this paragraph, that State Party shall make a declaration of compliance to the next Meeting of States Parties.

2. In fulfilling its obligations under paragraph 1 of this Article, each State Party shall take the following measures as soon as possible, taking into consideration the provisions of Article 6 of this Convention regarding international cooperation and assistance:

(a) Survey, assess and record the threat posed by cluster munition remnants, making every effort to identify all cluster munition contaminated areas under its jurisdiction or control;

5. Zasedanje držav pogodbenic ali pregledna konferenca ob upoštevanju dejavnikov iz prejšnjega odstavka prouči zaprosilo in z večino glasov držav pogodbenic, ki so navzoče in glasujejo, odloči, ali se zaprosilu za podaljšanje roka ugotovi. Države pogodbenice se lahko odločijo za odobritev krajšega podaljšanja roka od zaprosenega in lahko po potrebi predlagajo merila za njegovo podaljšanje. Zaposilo za podaljšanje roka se predloži najmanj devet mesecev pred zasedanjem držav pogodbenic ali pregledno konferenco, na kateri bo obravnavano.

6. Ne glede na določbe prvega člena je dovoljeno zadržati ali pridobiti omejeno količino kasetnega streliva in eksplozivnega podstreliva za razvoj in usposabljanje na področju odkrivanja kasetnega streliva in eksplozivnega podstreliva, metod čiščenja in uničevanja ali za razvoj protiukrepev glede kasetnega streliva. Obdržano ali pridobljeno eksplozivno podstrelivo ne sme preseči najmanjše količine, ki je nujno potrebna za te namene.

7. Ne glede na določbe prvega člena je dovoljen prenos kasetnega streliva v drugo državo pogodbenico zaradi uničenja in za namene iz prejšnjega odstavka.

8. Države pogodbenice, ki obdržijo, pridobijo ali preneajo kasetno strelivo ali eksplozivno podstrelivo za namene iz šestega in sedmega odstavka, predložijo podrobno poročilo o načrtovani in dejanski uporabi tega kasetnega streliva in eksplozivnega podstreliva in njuni vrsti, količini in številkah serij. Če se kasetno strelivo ali eksplozivno podstrelivo za te namene prenese v drugo državo pogodbenico, je v poročilu navedena pogodbenica prejemnica. Tako poročilo se pripravi za vsako leto, v katerem je država pogodbenica obdržala, pridobila ali prenesla kasetno strelivo ali eksplozivno podstrelivo, in se predloži generalnemu sekretarju Združenih narodov najpozneje do 30. aprila naslednjega leta.

#### 4. člen

##### *Čiščenje in uničevanje ostankov kasetnega streliva in izobraževanje o zmanjševanju tveganja*

1. Država pogodbenica se zavezuje, da bo očistila in uničila ali zagotovila čiščenje in uničenje ostankov kasetnega streliva na območjih, onesnaženih s kasetnim strelivom, ki so v njeni pristojnosti ali pod njenim nadzorom, in sicer:

(a) če so z dnem začetka veljavnosti te konvencije za državo pogodbenico ostanki kasetnega streliva na območjih v njeni pristojnosti ali pod njenim nadzorom, se čiščenje in uničenje dokonča čim prej, vendar najpozneje deset let po tem datumu;

(b) če po začetku veljavnosti te konvencije za državo pogodbenico kasetno strelivo postane ostanki kasetnega streliva, ki je na območjih v njeni pristojnosti ali pod njenim nadzorom, se čiščenje in uničenje dokonča čim prej, vendar najpozneje deset let po koncu aktivnih sovražnosti, v katerih je to kasetno strelivo postalo ostanki kasetnega streliva, in

(c) država pogodbenica po izpolnitvi svojih obveznosti iz točke a ali b tega odstavka predloži izjavo o izpolnjevanju obveznosti na naslednjem zasedanju držav pogodbenic.

2. Pri izpolnjevanju svojih obveznosti iz prvega odstavka in ob upoštevanju določb šestega člena o mednarodnem sodelovanju in pomoči država pogodbenica čim prej sprejme te ukrepe:

(a) prouči, oceni in evidentira nevarnost, ki grozi zaradi ostankov kasetnega streliva, pri čemer si po svojih najboljših močeh prizadeva za določitev vseh s kasetnim strelivom onesnaženih območij, ki so v njeni pristojnosti ali pod njenim nadzorom;

(b) Assess and prioritise needs in terms of marking, protection of civilians, clearance and destruction, and take steps to mobilise resources and develop a national plan to carry out these activities, building, where appropriate, upon existing structures, experiences and methodologies;

(c) Take all feasible steps to ensure that all cluster munition contaminated areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means to ensure the effective exclusion of civilians. Warning signs based on methods of marking readily recognisable by the affected community should be utilised in the marking of suspected hazardous areas. Signs and other hazardous area boundary markers should, as far as possible, be visible, legible, durable and resistant to environmental effects and should clearly identify which side of the marked boundary is considered to be within the cluster munition contaminated areas and which side is considered to be safe;

(d) Clear and destroy all cluster munition remnants located in areas under its jurisdiction or control; and

(e) Conduct risk reduction education to ensure awareness among civilians living in or around cluster munition contaminated areas of the risks posed by such remnants.

3. In conducting the activities referred to in paragraph 2 of this Article, each State Party shall take into account international standards, including the International Mine Action Standards (IMAS).

4. This paragraph shall apply in cases in which cluster munitions have been used or abandoned by one State Party prior to entry into force of this Convention for that State Party and have become cluster munition remnants that are located in areas under the jurisdiction or control of another State Party at the time of entry into force of this Convention for the latter.

(a) In such cases, upon entry into force of this Convention for both States Parties, the former State Party is strongly encouraged to provide, *inter alia*, technical, financial, material or human resources assistance to the latter State Party, either bilaterally or through a mutually agreed third party, including through the United Nations system or other relevant organisations, to facilitate the marking, clearance and destruction of such cluster munition remnants.

(b) Such assistance shall include, where available, information on types and quantities of the cluster munitions used, precise locations of cluster munition strikes and areas in which cluster munition remnants are known to be located.

5. If a State Party believes that it will be unable to clear and destroy or ensure the clearance and destruction of all cluster munition remnants referred to in paragraph 1 of this Article within ten years of the entry into force of this Convention for that State Party, it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the clearance and destruction of such cluster munition remnants by a period of up to five years. The requested extension shall not exceed the number of years strictly necessary for that State Party to complete its obligations under paragraph 1 of this Article.

6. A request for an extension shall be submitted to a Meeting of States Parties or a Review Conference prior to the expiry of the time period referred to in paragraph 1 of this Article for that State Party. Each request shall be submitted a minimum of nine months prior to the Meeting of States Parties or Review Conference at which it is to be considered. Each request shall set out:

(a) The duration of the proposed extension;

(b) A detailed explanation of the reasons for the proposed extension, including the financial and technical means available to and required by the State Party for the clearance and destruction of all cluster munition remnants during the proposed extension;

(c) The preparation of future work and the status of work already conducted under national clearance and de-mining programmes during the initial ten-year period referred to in paragraph 1 of this Article and any subsequent extensions;

(b) oceni in določi prednostne naloge glede označevanja, zaščite civilistov, čiščenja in uničenja ter sprejme ukrepe za zagotovitev virov in razvoj državnega načrta za izvedbo teh dejavnosti, pri čemer po potrebi izhaja iz obstoječih struktur, izkušenj in metodologij;

(c) sprejme vse izvedljive ukrepe, s katerimi zagotovi, da se vsa s kasetnim strelivom onesnažena območja v njeni pristojnosti ali pod njenim nadzorom označijo po zunanji meji, nadzirajo in zavarujejo z ograjo ali drugače, da je učinkovito preprečen dostop civilistom. Pri označevanju domnevnih nevarnih območij se uporabijo opozorilni znaki po metodah označevanja, ki jih prizadeta skupnost zlahka prepozna. Znaki in druge oznake meje nevarnega območja morajo biti čim bolj vidni, čitljivi, obstojni in odporni proti učinkom okolja ter morajo jasno določati, katera stran označene meje je na območju, onesnaženem s kasetnim strelivom, in katera stran je varna;

(d) očisti in uniči vse ostanke kasetnega streliva na območjih, ki so v njeni pristojnosti ali pod njenim nadzorom;

(e) izvaja izobraževanje o zmanjševanju tveganja, da bi o nevarnostih takih ostankov ozavestila civiliste, ki živijo na območjih, onesnaženih s kasetnim strelivom, ali v njihovi okolici.

3. Pri izvajanju dejavnosti iz drugega odstavka država pogodbenica upošteva mednarodne standarde, vključno s Mednarodnimi standardi za protiminsko delovanje (IMAS).

4. Ta odstavek se uporabi, če je država pogodbenica uporabila ali zapustila kasetno strelivo pred začetkom veljavnosti te konvencije zanjo in je postalo ostanke kasetnega streliva, ki je na območjih v pristojnosti ali pod nadzorom druge države pogodbenice ob začetku veljavnosti te konvencije za slednjo.

(a) Po začetku veljavnosti te konvencije za državi pogodbenici se v takih primerih prva država pogodbenica močno spodbuja, da med drugim zagotovi drugi državi pogodbenici tehnično, finančno, materialno pomoč ali pomoč v obliki človeških virov bodisi dvostransko bodisi prek medsebojno dogovorjene tretje strani, vključno s sistemom Združenih narodov ali drugimi ustreznimi organizacijami, zaradi lažjega označevanja, čiščenja in uničenja takih ostankov kasetnega streliva.

(b) Pomoč, ko je na voljo, vključuje informacije o vrstah in količinah uporabljenega kasetnega streliva, natančnih lokacijah napadov s kasetnim strelivom in območjih, za katera je znano, da so tam ostanke kasetnega streliva.

5. Če država pogodbenica meni, da ne bo mogla očistiti in uničiti ali zagotoviti čiščenja in uničenja vseh ostankov kasetnega streliva iz prvega odstavka v desetih letih od začetka veljavnosti te konvencije za državo pogodbenico, lahko pošlje zasedanju držav pogodbenic ali pregledni konferenci zaprosilo za podaljšanje roka za dokončanje čiščenja in uničenja takih ostankov kasetnega streliva za največ pet let. Zaprošeno podaljšanje roka ne sme preseči števila let, ki so nujno potrebna za državo pogodbenico, da izpolni svoje obveznosti po prvem odstavku.

6. Zaprošilo za podaljšanje se predloži na zasedanju držav pogodbenic ali pregledni konferenci, preden za državo pogodbenico poteče rok iz prvega odstavka. Zaprošilo se predloži najmanj devet mesecev pred zasedanjem držav pogodbenic ali pregledno konferenco, na kateri bo obravnavano. V njem se navedejo:

(a) trajanje predlaganega podaljšanja roka;

(b) podrobna obrazložitev vzrokov za predlagano podaljšanje roka, vključno s finančnimi in tehničnimi sredstvi, ki so na voljo in jih potrebuje država pogodbenica za čiščenje in uničenje vseh ostankov kasetnega streliva v predlaganem podaljšanjem roku;

(c) priprava prihodnjega dela in stanje že opravljenega dela po državnih programih čiščenja in razminiranja v prvem desetletnem obdobju iz prvega odstavka in v nadaljnjih podaljšanih roka;

(d) The total area containing cluster munition remnants at the time of entry into force of this Convention for that State Party and any additional areas containing cluster munition remnants discovered after such entry into force;

(e) The total area containing cluster munition remnants cleared since entry into force of this Convention;

(f) The total area containing cluster munition remnants remaining to be cleared during the proposed extension;

(g) The circumstances that have impeded the ability of the State Party to destroy all cluster munition remnants located in areas under its jurisdiction or control during the initial ten-year period referred to in paragraph 1 of this Article, and those that may impede this ability during the proposed extension;

(h) The humanitarian, social, economic and environmental implications of the proposed extension; and

(i) Any other information relevant to the request for the proposed extension.

7. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors referred to in paragraph 6 of this Article, including, *inter alia*, the quantities of cluster munition remnants reported, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension. The States Parties may decide to grant a shorter extension than that requested and may propose benchmarks for the extension, as appropriate.

8. Such an extension may be renewed by a period of up to five years upon the submission of a new request, in accordance with paragraphs 5, 6 and 7 of this Article. In requesting a further extension a State Party shall submit relevant additional information on what has been undertaken during the previous extension granted pursuant to this Article.

#### Article 5

##### *Victim assistance*

1. Each State Party with respect to cluster munition victims in areas under its jurisdiction or control shall, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion. Each State Party shall make every effort to collect reliable relevant data with respect to cluster munition victims.

2. In fulfilling its obligations under paragraph 1 of this Article each State Party shall:

(a) Assess the needs of cluster munition victims;

(b) Develop, implement and enforce any necessary national laws and policies;

(c) Develop a national plan and budget, including timeframes to carry out these activities, with a view to incorporating them within the existing national disability, development and human rights frameworks and mechanisms, while respecting the specific role and contribution of relevant actors;

(d) Take steps to mobilise national and international resources;

(e) Not discriminate against or among cluster munition victims, or between cluster munition victims and those who have suffered injuries or disabilities from other causes; differences in treatment should be based only on medical, rehabilitative, psychological or socio-economic needs;

(f) Closely consult with and actively involve cluster munition victims and their representative organisations;

(g) Designate a focal point within the government for coordination of matters relating to the implementation of this Article; and

(d) celotno območje, na katerem so ostanki kasetnega streliva ob začetku veljavnosti te konvencije za državo pogodbenico, in vsa dodatna območja, na katerih so ostanki kasetnega streliva, odkriti po začetku veljavnosti;

(e) celotno območje, na katerem so bili ostanki kasetnega streliva in je bilo po začetku veljavnosti te konvencije že očiščeno;

(f) celotno območje, na katerem so ostanki kasetnega streliva in ga je treba očistiti v predlaganem podaljšanem roku;

(g) okoliščine, ki so zmanjšale zmožnost države pogodbenice, da uniči vse ostanke kasetnega streliva, ki so na območjih v njeni pristojnosti ali pod njenim nadzorom, v prvem desetletnem obdobju iz prvega odstavka, in okoliščine, ki lahko to zmožnost zmanjšajo v predlaganem podaljšanem roku;

(h) humanitarne, družbene, gospodarske in okoljske posledice predlaganega podaljšanja roka ter

(i) druge informacije v zvezi z zaprosilom za predlagano podaljšanje roka.

7. Na zasedanju držav pogodbenic ali pregledni konferenci se ob upoštevanju dejavnikov iz šestega odstavka, vključno s prijavljenimi količinami ostankov kasetnega streliva, zaprosilo prouči in z večino glasov držav pogodbenic, ki so navzoče in glasujejo, odloči, ali se zaprosilo za podaljšanje roka ugodi. Države pogodbenice se lahko odločijo za odobritev krajšega podaljšanja roka od zaprosenega in lahko po potrebi predlagajo merila za njegovo podaljšanje.

8. Podaljšanje roka se lahko obnovi za največ pet let ob predložitvi novega zaprosila v skladu s petim, šestim in sedmim odstavkom. V zaprosilu za nadaljnje podaljšanje roka država pogodbenica predloži ustrezne dodatne informacije o opravljenem delu med prejšnjim podaljšanim rokom, odobrenem na podlagi tega člena.

#### 5. člen

##### *Pomoč žrtvam*

1. Država pogodbenica žrtvam kasetnega streliva na območjih, ki so v njeni pristojnosti in pod njenim nadzorom, na primeren način v skladu z veljavnim mednarodnim humanitarnim pravom in pravom človekovih pravic zagotovi pomoč, pri kateri se upoštevata starost in spol, vključno z zdravstveno oskrbo, rehabilitacijo in psihološko podporo, ter zagotovi njihovo vključevanje in družbeno in gospodarsko življenje. Država pogodbenica si po svojih najboljših močeh prizadeva zbrati ustrezne in zanesljive podatke o žrtvah kasetnega streliva.

2. Pri izpolnjevanju svojih obveznosti po prvem odstavku država pogodbenica:

(a) oceni potrebe žrtev kasetnega streliva;

(b) pripravlja, izvaja in uveljavlja potrebne notranje zakone in politike;

(c) pripravi državni načrt in proračun, vključno s časovnico za izvedbo teh dejavnosti, zaradi njihovega vključevanja v obstoječe državne okvire in mehanizme za invalide, razvoj in človekove pravice ob upoštevanju posebne vloge in prispevka ustreznih akterjev;

(d) sprejme ukrepe za zagotovitev državnih in mednarodnih virov;

(e) ni diskriminatorna do žrtev kasetnega streliva ali ne razlikuje med njimi ali med žrtvami kasetnega streliva in žrtvami, ki so bile poškodovane ali so postale invalidi zaradi drugih razlogov; razlike pri obravnavanju lahko temeljijo samo na zdravstvenih, rehabilitacijskih, psiholoških ali družbenogospodarskih potrebah;

(f) se posvetuje z žrtvami kasetnega streliva in njihovimi predstavniškimi organizacijami ter jih dejavno vključuje;

(g) v vladi določi točko za stike za usklajevanje zadev, povezanih z izvajanjem tega člena, in



(h) Strive to incorporate relevant guidelines and good practices including in the areas of medical care, rehabilitation and psychological support, as well as social and economic inclusion.

## Article 6

*International cooperation and assistance*

1. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance.

2. Each State Party in a position to do so shall provide technical, material and financial assistance to States Parties affected by cluster munitions, aimed at the implementation of the obligations of this Convention. Such assistance may be provided, *inter alia*, through the United Nations system, international, regional or national organisations or institutions, non-governmental organisations or institutions, or on a bilateral basis.

3. Each State Party undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment and scientific and technological information concerning the implementation of this Convention. The States Parties shall not impose undue restrictions on the provision and receipt of clearance and other such equipment and related technological information for humanitarian purposes.

4. In addition to any obligations it may have pursuant to paragraph 4 of Article 4 of this Convention, each State Party in a position to do so shall provide assistance for clearance and destruction of cluster munition remnants and information concerning various means and technologies related to clearance of cluster munitions, as well as lists of experts, expert agencies or national points of contact on clearance and destruction of cluster munition remnants and related activities.

5. Each State Party in a position to do so shall provide assistance for the destruction of stockpiled cluster munitions, and shall also provide assistance to identify, assess and prioritise needs and practical measures in terms of marking, risk reduction education, protection of civilians and clearance and destruction as provided in Article 4 of this Convention.

6. Where, after entry into force of this Convention, cluster munitions have become cluster munition remnants located in areas under the jurisdiction or control of a State Party, each State Party in a position to do so shall urgently provide emergency assistance to the affected State Party.

7. Each State Party in a position to do so shall provide assistance for the implementation of the obligations referred to in Article 5 of this Convention to adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for social and economic inclusion of cluster munition victims. Such assistance may be provided, *inter alia*, through the United Nations system, international, regional or national organisations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent Societies and their International Federation, non-governmental organisations or on a bilateral basis.

8. Each State Party in a position to do so shall provide assistance to contribute to the economic and social recovery needed as a result of cluster munition use in affected States Parties.

9. Each State Party in a position to do so may contribute to relevant trust funds in order to facilitate the provision of assistance under this Article.

10. Each State Party that seeks and receives assistance shall take all appropriate measures in order to facilitate the timely and effective implementation of this Convention, including facilitation of the entry and exit of personnel, materiel and equipment, in a manner consistent with national laws and regulations, taking into consideration international best practices.

11. Each State Party may, with the purpose of developing a national action plan, request the United Nations system, regional organisations, other States Parties or other competent intergovernmental or non-governmental institutions to assist its authorities to determine, *inter alia*:

(h) si prizadeva vključiti ustrezne smernice in dobre prakse tudi pri zdravstveni oskrbi, rehabilitaciji in psihološki podpori ter vključevanju v družbeno in gospodarsko življenje.

## 6. člen

*Mednarodno sodelovanje in pomoč*

1. Država pogodbenica ima pri izpolnjevanju svojih obveznosti po tej konvenciji pravico zaprositi za pomoč in jo prejeti.

2. Država pogodbenica, ki to lahko stori, zagotavlja tehnično, materialno in finančno pomoč državam pogodbenicam, ki jih je prizadelo kasetno strelivo, za izpolnjevanje obveznosti po tej konvenciji. Pomoč se lahko zagotavlja tudi prek sistema Združenih narodov, mednarodnih, regionalnih ali državnih organizacij ali ustanov, nevladnih organizacij ali ustanov ali na dvostranski podlagi.

3. Država pogodbenica se zavezuje, da bo omogočala čim večjo izmenjavo opreme ter znanstvenih in tehnoloških informacij za izvajanje te konvencije, ter ima pravico pri tem sodelovati. Države pogodbenice ne smejo uvesti nepotrebnih omejitev za zagotavljanje in prevzem opreme za čiščenje in druge take opreme in s tem povezanih tehnoloških informacij za humanitarne namene.

4. Poleg obveznosti, ki jih lahko ima na podlagi četrtega odstavka 4. člena država pogodbenica, ki to lahko stori, zagotovi pomoč pri čiščenju in uničevanju ostankov kasetnega streliva in informacije o različnih načinih in tehnologijah za čiščenje kasetnega streliva ter sezname strokovnjakov, strokovnih služb ali državnih točk za stike v zvezi s čiščenjem in uničevanjem ostankov kasetnega streliva in s tem povezanimi dejavnostmi.

5. Država pogodbenica, ki to lahko stori, zagotavlja pomoč pri uničevanju zalog kasetnega streliva in pomoč za določanje, ocenjevanje in razvrščanje po pomembnosti potreb in praktičnih ukrepov glede označevanja, izobraževanja o zmanjševanju tveganja, zaščite civilistov ter čiščenja in uničevanja, kot določa 4. člen.

6. Če je po začetku veljavnosti te konvencije kasetno strelivo postalo ostanki kasetnega streliva, ki je na območjih v pristojnosti in pod nadzorom države pogodbenice, država pogodbenica, ki to lahko stori, čim prej zagotovi prizadeti državi pogodbenici nujno pomoč.

7. Država pogodbenica, ki to lahko stori, zagotavlja pomoč za izpolnjevanje obveznosti iz 5. člena za ustrezno zagotavljanje pomoči, ki upošteva starost in spol, vključno z zdravstveno oskrbo, rehabilitacijo in psihološko podporo, kakor tudi poskrbi za vključevanje žrtev kasetnega streliva v družbeno in gospodarsko življenje. Pomoč se lahko zagotavlja tudi prek sistema Združenih narodov, mednarodnih, regionalnih ali državnih organizacij ali ustanov, Mednarodnega odbora Rdečega križa, nacionalnih organizacij Rdečega križa in Rdečega polmeseca in njihove mednarodne federacije, nevladnih organizacij ali na dvostranski podlagi.

8. Država pogodbenica, ki to lahko stori, pomaga prispevati h gospodarski in družbeni obnovi, potrebni zaradi uporabe kasetnega streliva v prizadetih državah pogodbenicah.

9. Država pogodbenica, ki to lahko stori, lahko prispeva v ustrezne skrbniške sklade, da bi omogočila zagotavljanje pomoči po tem členu.

10. Država pogodbenica, ki zaprosi za pomoč in jo prejme, sprejme vse ustrezne ukrepe za pravočasno in učinkovito izvajanje te konvencije, vključno z lažjim vstopom in izstopom osebja, materiala in opreme, na način, ki je ob upoštevanju mednarodnih najboljših praks skladen z notranjimi zakoni in predpisi.

11. Država pogodbenica lahko zaradi priprave državnega načrta ukrepanja zaprosi Združene narode, regionalne organizacije, druge države pogodbenice ali druge pristojne medvladne ali nevladne organizacije, da pomagajo njenim organom določiti tudi:



(a) The nature and extent of cluster munition remnants located in areas under its jurisdiction or control;

(b) The financial, technological and human resources required for the implementation of the plan;

(c) The time estimated as necessary to clear and destroy all cluster munition remnants located in areas under its jurisdiction or control;

(d) Risk reduction education programmes and awareness activities to reduce the incidence of injuries or deaths caused by cluster munition remnants;

(e) Assistance to cluster munition victims; and

(f) The coordination relationship between the government of the State Party concerned and the relevant governmental, intergovernmental or non-governmental entities that will work in the implementation of the plan.

12. States Parties giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programmes.

#### Article 7

##### *Transparency measures*

1. Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party, on:

(a) The national implementation measures referred to in Article 9 of this Convention;

(b) The total of all cluster munitions, including explosive submunitions, referred to in paragraph 1 of Article 3 of this Convention, to include a breakdown of their type, quantity and, if possible, lot numbers of each type;

(c) The technical characteristics of each type of cluster munition produced by that State Party prior to entry into force of this Convention for it, to the extent known, and those currently owned or possessed by it, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of cluster munitions; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information that may facilitate the clearance of cluster munition remnants;

(d) The status and progress of programmes for the conversion or decommissioning of production facilities for cluster munitions;

(e) The status and progress of programmes for the destruction, in accordance with Article 3 of this Convention, of cluster munitions, including explosive submunitions, with details of the methods that will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;

(f) The types and quantities of cluster munitions, including explosive submunitions, destroyed in accordance with Article 3 of this Convention, including details of the methods of destruction used, the location of the destruction sites and the applicable safety and environmental standards observed;

(g) Stockpiles of cluster munitions, including explosive submunitions, discovered after reported completion of the programme referred to in sub-paragraph (e) of this paragraph, and plans for their destruction in accordance with Article 3 of this Convention;

(h) To the extent possible, the size and location of all cluster munition contaminated areas under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of cluster munition remnant in each such area and when they were used;

(a) naravo in obseg ostankov kasetnega streliva, ki so na območjih v njeni pristojnosti ali pod njenim nadzorom;

(b) finančne, tehnološke in človeške vire, potrebne za izvajanje načrta;

(c) predvideni čas, potreben za čiščenje in uničenje vseh ostankov kasetnega streliva, ki je na območjih v njeni pristojnosti ali pod njenim nadzorom;

(d) programe izobraževanja o zmanjševanju tveganja in dejavnosti ozaveščanja za zmanjšanje pogostosti poškodb ali smrti, ki jih povzročijo ostanki kasetnega streliva;

(e) pomoč žrtvam kasetnega streliva in

(f) usklajevanje med vlado države pogodbenice in ustreznimi vladnimi, medvladnimi ali nevladnimi organizacijami, ki bodo sodelovale pri izvajanju načrta.

12. Države pogodbenice, ki dajejo in prejemajo pomoč po določbah tega člena, pri tem sodelujejo zaradi zagotavljanja celovitega in takojšnjega izvajanja dogovorjenih programov pomoči.

#### 7. člen

##### *Ukrepi za boljšo preglednost*

1. Država pogodbenica čim prej poroča generalnemu sekretarju Združenih narodov, najpozneje pa 180 dni po začetku veljavnosti te konvencije za to državo pogodbenico o:

(a) državnih ukrepih za izvajanje iz 9. člena;

(b) vsem kasetnem strelivu, vključno z eksplozivnim podstrelivom, iz prvega odstavka 3. člena skupaj z vrsto, količino in po možnosti številkami serij za vsako vrsto;

(c) tehničnih značilnostih vsake vrste kasetnega streliva, ki ga je zase izdelala država pogodbenica pred začetkom veljavnosti te konvencije, če jih pozna, in kasetnega streliva, ki ga ima trenutno v lasti ali posesti, pri čemer po možnosti navede tiste informacije, ki omogočajo lažje prepoznavanje in čiščenje kasetnega streliva; te informacije morajo vključevati vsaj podatke o merah, načinu aktiviranja, vsebnosti razstreliva in kovin, barvne fotografije in druge informacije, ki lahko olajšajo čiščenje ostankov kasetnega streliva;

(d) stanju in napredku programov za preusmeritev ali razgradnjo proizvodnih objektov za kasetno strelivo;

(e) stanju in napredku programov za uničenje kasetnega streliva v skladu s 3. členom, vključno z eksplozivnim podstrelivom, s podatki o metodah, ki bodo uporabljene pri uničenju, vseh mestih uničevanja in ustreznih varnostnih in okoljskih standardih, ki jih je treba upoštevati;

(f) vrstah in količinah kasetnega streliva, vključno z eksplozivnim podstrelivom, uničenim v skladu s 3. členom, skupaj s podatki o uporabljenih metodah za uničevanje, mestih uničevanja in upoštevanih ustreznih varnostnih in okoljskih standardih;

(g) zalogah kasetnega streliva, vključno z eksplozivnim podstrelivom, odkritih po sporočenem dokončanju programa iz pododstavka e, in načrtih za njihovo uničenje v skladu s 3. členom;

(h) po možnosti velikosti in lokaciji vseh območij, ki so onesnažena s kasetnim strelivom in so v njeni pristojnosti ali pod njenim nadzorom, kar vključuje čim več podrobnosti o vrsti in količini posamezne vrste ostanka kasetnega streliva na takem območju in o tem, kdaj je bilo strelivo uporabljeno;

(i) The status and progress of programmes for the clearance and destruction of all types and quantities of cluster munition remnants cleared and destroyed in accordance with Article 4 of this Convention, to include the size and location of the cluster munition contaminated area cleared and a breakdown of the quantity of each type of cluster munition remnant cleared and destroyed;

(j) The measures taken to provide risk reduction education and, in particular, an immediate and effective warning to civilians living in cluster munition contaminated areas under its jurisdiction or control;

(k) The status and progress of implementation of its obligations under Article 5 of this Convention to adequately provide age- and gender- sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for social and economic inclusion of cluster munition victims and to collect reliable relevant data with respect to cluster munition victims;

(l) The name and contact details of the institutions mandated to provide information and to carry out the measures described in this paragraph;

(m) The amount of national resources, including financial, material or in kind, allocated to the implementation of Articles 3, 4 and 5 of this Convention; and

(n) The amounts, types and destinations of international cooperation and assistance provided under Article 6 of this Convention.

2. The information provided in accordance with paragraph 1 of this Article shall be updated by the States Parties annually, covering the previous calendar year, and reported to the Secretary-General of the United Nations not later than 30 April of each year.

3. The Secretary-General of the United Nations shall transmit all such reports received to the States Parties.

#### Article 8

##### *Facilitation and clarification of compliance*

1. The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under this Convention.

2. If one or more States Parties wish to clarify and seek to resolve questions relating to a matter of compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary-General of the United Nations, a Request for Clarification of that matter to that State Party. Such a request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary-General of the United Nations, within 28 days to the requesting State Party all information that would assist in clarifying the matter.

3. If the requesting State Party does not receive a response through the Secretary-General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter through the Secretary-General of the United Nations to the next Meeting of States Parties. The Secretary-General of the United Nations shall transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification, to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.

4. Pending the convening of any Meeting of States Parties, any of the States Parties concerned may request the Secretary-General of the United Nations to exercise his or her good offices to facilitate the clarification requested.

(i) stanju in napredku programov za čiščenje in uničevanje vseh vrst in količin ostankov kasetnega streliva, očiščenih in uničenih v skladu s 4. členom, vključno z velikostjo in lokacijo že očiščenega območja, ki je bilo onesnaženo s kasetnim strelivom, in količino posamezne vrste očiščenih in uničenih ostankov kasetnega streliva;

(j) sprejetih ukrepih za izobraževanje o zmanjševanju tveganja in zlasti za takojšnje in učinkovito opozarjanje civilistov, ki živijo na območjih, onesnaženih s kasetnim strelivom, v njeni pristojnosti ali pod njenim nadzorom;

(k) stanju in napredku izpolnjevanja njenih obveznosti po 5. členu, da zagotovi ustrezno pomoč, pri kateri se upoštevata starost in spol, vključno z zdravstveno oskrbo, rehabilitacijo in psihološko podporo, ter poskrbi za vključevanje žrtev kasetnega streliva v družbeno in gospodarsko življenje ter zbere ustrezne in zanesljive podatke o žrtvah kasetnega streliva;

(l) imenih in podatkih za stike ustanov, ki so pristojne za dajanje informacij in izvajanje ukrepov iz tega odstavka;

(m) višini nacionalnih virov, vključno s finančnimi, materialnimi ali viri v naravi, dodeljenih za izvedbo 3., 4. in 5. člena, in

(n) obsegu, vrstah in namembnih krajih mednarodnega sodelovanja in pomoči, zagotovljenih po 6. členu.

2. Države pogodbenice vsako leto za zadnje koledarsko leto dopolnjujejo informacije, zagotovljene v skladu s prvim odstavkom, in jih sporočijo generalnemu sekretarju Združenih narodov najpozneje do 30. aprila.

3. Generalni sekretar Združenih narodov vsa prejeta poročila pošilja državam pogodbenicam.

#### 8. člen

##### *Lažje izpolnjevanje obveznosti in pojasnila*

1. Države pogodbenice se strinjajo, da se posvetujejo in sodelujejo pri izvajanju te konvencije in si v duhu sodelovanja olajšujejo izpolnjevanje obveznosti po konvenciji.

2. Če ena ali več držav pogodbenic želi razjasniti in rešiti vprašanja, povezana z izpolnjevanjem obveznosti druge države pogodbenice po tej konvenciji, lahko tej državi pogodbenici prek generalnega sekretarja Združenih narodov pošlje zaprosilo za pojasnilo o tej zadevi. Zaposilu se priložijo vse ustrezne informacije. Država pogodbenica ne daje neutemeljenih zaprosil za pojasnilo, s čimer se preprečujejo zlorabe. Država pogodbenica, ki je prejela zaprosilo za pojasnilo, pošlje prek generalnega sekretarja Združenih narodov državi pogodbenici, ki je zaprosila za pojasnilo, v 28 dneh vse informacije, ki bi pomagale razjasniti zadevo.

3. Če država pogodbenica, ki je zaprosila za pojasnilo, ne prejme odgovora prek generalnega sekretarja Združenih narodov v tem roku ali meni, da odgovor na zaprosilo za pojasnilo ni zadovoljiv, lahko prek generalnega sekretarja Združenih narodov predloži zadevo na naslednjem zasedanju držav pogodbenic. Generalni sekretar Združenih narodov vsem državam pogodbenicam pošlje zadevo skupaj z ustreznimi informacijami, ki se nanašajo na zaprosilo za pojasnilo. Informacije se predložijo državi pogodbenici, od katere se zahteva pojasnilo, ta pa ima pravico do odgovora.

4. Do sklica zasedanja držav pogodbenic lahko katera koli zadevna država pogodbenica zaprosi generalnega sekretarja Združenih narodov za pomoč pri razjasnitvi.

5. Where a matter has been submitted to it pursuant to paragraph 3 of this Article, the Meeting of States Parties shall first determine whether to consider that matter further, taking into account all information submitted by the States Parties concerned. If it does so determine, the Meeting of States Parties may suggest to the States Parties concerned ways and means further to clarify or resolve the matter under consideration, including the initiation of appropriate procedures in conformity with international law. In circumstances where the issue at hand is determined to be due to circumstances beyond the control of the requested State Party, the Meeting of States Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 6 of this Convention.

6. In addition to the procedures provided for in paragraphs 2 to 5 of this Article, the Meeting of States Parties may decide to adopt such other general procedures or specific mechanisms for clarification of compliance, including facts and resolution of instances of non-compliance with the provisions of this Convention as it deems appropriate.

#### Article 9

##### *National implementation measures*

Each State Party shall take all appropriate legal, administrative and other measures to implement this Convention, including the imposition of penal sanctions to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.

#### Article 10

##### *Settlement of disputes*

1. When a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the States Parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of their choice, including recourse to the Meeting of States Parties and referral to the International Court of Justice in conformity with the Statute of the Court.

2. The Meeting of States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties concerned to start the settlement procedure of their choice and recommending a time-limit for any agreed procedure.

#### Article 11

##### *Meetings of States Parties*

1. The States Parties shall meet regularly in order to consider and, where necessary, take decisions in respect of any matter with regard to the application or implementation of this Convention, including:

- (a) The operation and status of this Convention;
- (b) Matters arising from the reports submitted under the provisions of this Convention;
- (c) International cooperation and assistance in accordance with Article 6 of this Convention;
- (d) The development of technologies to clear cluster munition remnants;
- (e) Submissions of States Parties under Articles 8 and 10 of this Convention; and
- (f) Submissions of States Parties as provided for in Articles 3 and 4 of this Convention.

2. The first Meeting of States Parties shall be convened by the Secretary-General of the United Nations within one year of entry into force of this Convention. The subsequent meetings shall be convened by the Secretary-General of the United Nations annually until the first Review Conference.

5. Ko je bila zadeva predložena na zasedanje držav pogodbenic v skladu s tretjim odstavkom, se najprej odloči, ali bo zadeva nadalje obravnavana, pri čemer so upoštevane vse informacije, ki so jih predložile zadevne države pogodbenice. Če se tako odloči, lahko zasedanje držav pogodbenic predlaga zadevnim državam pogodbenicam načine in sredstva za nadaljnjo razjasnitev ali rešitev obravnavane zadeve, vključno z začetkom ustreznih postopkov v skladu z mednarodnim pravom. V okoliščinah, pri katerih se ugotovi, da je obravnavano vprašanje nastalo zaradi razmer, ki so zunaj nadzora države pogodbenice, ki je zaprošena za pojasnilo, lahko zasedanje držav pogodbenic priporoči ustrezne ukrepe, vključno z uporabo ukrepov sodelovanja iz 6. člena.

6. Poleg postopkov, predvidenih v drugem do petem odstavku, lahko zasedanje držav pogodbenic sprejme druge splošne postopke ali posebne mehanizme za razjasnitev izpolnjevanja obveznosti, vključno z dejstvi, in razrešitev primerov neizpolnjevanja obveznosti po tej konvenciji, kakor meni, da je primerno.

#### 9. člen

##### *Ukrepi države za izvajanje konvencije*

Država pogodbenica sprejme vse ustrezne pravne, upravne in druge ukrepe za izvajanje te konvencije, vključno z uvedbo kazenskih sankcij za preprečevanje in zatiranje dejavnosti, ki je državi pogodbenici prepovedana po tej konvenciji in jo opravljajo osebe ali se opravlja na ozemlju v njeni pristojnosti ali pod njenim nadzorom.

#### 10. člen

##### *Reševanje sporov*

1. Če nastane spor med dvema ali več državami pogodbenicami zaradi razlage ali uporabe te konvencije, se med seboj posvetujejo, da bi dosegle hitro rešitev spora s pogajanjem ali na drug miren način po svoji izbiri, kar vključuje tudi pomoč zasedanja držav pogodbenic in predložitve Meddržavnemu sodišču v skladu z njegovim statutom.

2. Zasedanje držav pogodbenic lahko prispeva k rešitvi spora na način, za katerega meni, da je primeren, vključno s tem, da ponudi svojo pomoč, pozove države pogodbenice v sporu, da začnejo postopek reševanja spora po svoji izbiri, in priporoči rok za izvedbo dogovorjenega postopka.

#### 11. člen

##### *Zasedanja držav pogodbenic*

1. Države pogodbenice se redno sestajajo, da obravnavajo in po potrebi sprejmejo odločitve o zadevah, povezanih z uporabo ali izvajanjem te konvencije, vključno z:

- (a) izvajanjem in statusom konvencije;
- (b) zadevami, ki izhajajo iz poročil, predloženih na podlagi določb konvencije;
- (c) mednarodnim sodelovanjem in pomočjo v skladu s 6. členom;
- (d) razvojem tehnologij za čiščenje ostankov kasetnega streliva;
- (e) zaposili držav pogodbenic po 8. in 10. členu;
- (f) zaposili držav pogodbenic po 3. in 4. členu.

2. Generalni sekretar Združenih narodov skliče prvo zasedanje držav pogodbenic v enem letu po začetku veljavnosti konvencije. Naslednja zasedanja sklicuje generalni sekretar Združenih narodov enkrat letno do prve pregledne konference.

3. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations may be invited to attend these meetings as observers in accordance with the agreed rules of procedure.

#### Article 12

##### *Review Conferences*

1. A Review Conference shall be convened by the Secretary-General of the United Nations five years after the entry into force of this Convention. Further Review Conferences shall be convened by the Secretary-General of the United Nations if so requested by one or more States Parties, provided that the interval between Review Conferences shall in no case be less than five years. All States Parties to this Convention shall be invited to each Review Conference.

2. The purpose of the Review Conference shall be:

(a) To review the operation and status of this Convention;

(b) To consider the need for and the interval between further Meetings of States Parties referred to in paragraph 2 of Article 11 of this Convention; and

(c) To take decisions on submissions of States Parties as provided for in Articles 3 and 4 of this Convention.

3. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations may be invited to attend each Review Conference as observers in accordance with the agreed rules of procedure.

#### Article 13

##### *Amendments*

1. At any time after its entry into force any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the Secretary-General of the United Nations, who shall circulate it to all States Parties and shall seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notify the Secretary-General of the United Nations no later than 90 days after its circulation that they support further consideration of the proposal, the Secretary-General of the United Nations shall convene an Amendment Conference to which all States Parties shall be invited.

2. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations may be invited to attend each Amendment Conference as observers in accordance with the agreed rules of procedure.

3. The Amendment Conference shall be held immediately following a Meeting of States Parties or a Review Conference unless a majority of the States Parties request that it be held earlier.

4. Any amendment to this Convention shall be adopted by a majority of two-thirds of the States Parties present and voting at the Amendment Conference. The Depositary shall communicate any amendment so adopted to all States.

5. An amendment to this Convention shall enter into force for States Parties that have accepted the amendment on the date of deposit of acceptances by a majority of the States which were Parties at the date of adoption of the amendment. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

3. Države, ki niso pogodbenice konvencije, Združeni narodi, druge ustrezne mednarodne organizacije ali ustanove, regionalne organizacije, Mednarodni odbor Rdečega križa, Mednarodna federacija organizacij Rdečega križa in Rdečega polmeseca ter ustrezne nevladne organizacije se lahko povabijo, da se kot opazovalci udeležijo zasedanj po dogovorjenem poslovniku.

#### 12. člen

##### *Pregledne konference*

1. Pregledno konferenco skliče generalni sekretar Združenih narodov pet let po začetku veljavnosti konvencije. Generalni sekretar Združenih narodov sklicuje naslednje pregledne konference na zahtevo ene ali več držav pogodbenic, toda presledek med preglednimi konferencami ne sme biti nikoli manj kot pet let. Na pregledno konferenco se povabijo vse države pogodbenice.

2. Namen pregledne konference je:

(a) pregledati izvajanje in status konvencije;

(b) proučiti potrebo po nadaljnjih zasedanjih držav pogodbenic iz drugega odstavka 11. člena in presledek med njimi;

(c) odločati o zaprosilih držav pogodbenic po 3. in 4. členu.

3. Države, ki niso pogodbenice konvencije, Združeni narodi, druge ustrezne mednarodne organizacije ali ustanove, regionalne organizacije, Mednarodni odbor Rdečega križa, Mednarodna federacija organizacij Rdečega križa in Rdečega polmeseca ter ustrezne nevladne organizacije se lahko povabijo, da se kot opazovalci udeležijo vsake pregledne konference po dogovorjenem poslovniku.

#### 13. člen

##### *Spremembe*

1. Država pogodbenica lahko kadar koli po začetku veljavnosti konvencije predlaga spremembe. Predlog za spremembo se sporoči generalnemu sekretarju Združenih narodov, ki ga pošlje vsem državam pogodbenicam in zaprosi za njihova mnenja o sklicu konference o spremembah za proučitev tega predloga. Če večina držav pogodbenic uradno obvesti generalnega sekretarja Združenih narodov najpozneje 90 dni po tem, ko je bil predlog razposlan, da podpira nadaljnjo proučitev predloga, generalni sekretar Združenih narodov skliče konferenco o spremembah, na katero se povabijo vse države pogodbenice.

2. Države, ki niso pogodbenice konvencije, Združeni narodi, druge ustrezne mednarodne organizacije ali ustanove, regionalne organizacije, Mednarodni odbor Rdečega križa, Mednarodna federacija organizacij Rdečega križa in Rdečega polmeseca ter ustrezne nevladne organizacije se lahko povabijo, da se kot opazovalci udeležijo konference o spremembah po dogovorjenem poslovniku.

3. Konferenca o spremembah je takoj po zasedanju držav pogodbenic ali pregledni konferenci, razen če večina držav pogodbenic ne zahteva, da poteka prej.

4. Vsaka sprememba konvencije se sprejme z dvetretjinsko večino glasov držav pogodbenic, ki so navzoče in glasujejo na konferenci o spremembah. Depozitar vse države obvesti o vsaki spremembi.

5. Sprememba konvencije začne za države pogodbenice, ki so spremembo sprejele, veljati z dnem, ko je večina držav, ki so bile pogodbenice na dan sprejetja spremembe, deponirala svoje listine o sprejetju. Za vsako drugo državo pogodbenico začne veljati z dnem deponiranja njene listine o sprejetju.



## Article 14

*Costs and administrative tasks*

1. The costs of the Meetings of States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not party to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.

2. The costs incurred by the Secretary-General of the United Nations under Articles 7 and 8 of this Convention shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

3. The performance by the Secretary-General of the United Nations of administrative tasks assigned to him or her under this Convention is subject to an appropriate United Nations mandate.

## Article 15

*Signature*

This Convention, done at Dublin on 30 May 2008, shall be open for signature at Oslo by all States on 3 December 2008 and thereafter at United Nations Headquarters in New York until its entry into force.

## Article 16

*Ratification, acceptance, approval or accession*

1. This Convention is subject to ratification, acceptance or approval by the Signatories.

2. It shall be open for accession by any State that has not signed the Convention.

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

## Article 17

*Entry into force*

1. This Convention shall enter into force on the first day of the sixth month after the month in which the thirtieth instrument of ratification, acceptance, approval or accession has been deposited.

2. For any State that deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the thirtieth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

## Article 18

*Provisional application*

Any State may, at the time of its ratification, acceptance, approval or accession, declare that it will apply provisionally Article 1 of this Convention pending its entry into force for that State.

## Article 19

*Reservations*

The Articles of this Convention shall not be subject to reservations.

## Article 20

*Duration and withdrawal*

1. This Convention shall be of unlimited duration.

2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention. It shall give notice of such withdrawal to all other States Parties, to the Depositary and to the United Nations Security Council. Such instrument of withdrawal shall include a full explanation of the reasons motivating withdrawal.

## 14. člen

*Stroški in administrativne naloge*

1. Stroške zasedanj držav pogodbenic, preglednih konferenc in konferenc o spremembah krijejo države pogodbenice in države, ki niso pogodbenice te konvencije, a na njih sodelujejo, v skladu z ustrezno prilagojenim razdelilnikom stroškov Združenih narodov.

2. Stroške generalnega sekretarja Združenih narodov po 7. in 8. členu krijejo države pogodbenice v skladu z ustrezno prilagojenim razdelilnikom stroškov Združenih narodov.

3. Za opravljanje administrativnih nalog generalnega sekretarja Združenih narodov, ki so mu bile zaupane po konvenciji, so potrebna ustrezna pooblastila Združenih narodov.

## 15. člen

*Podpis*

Konvencija, sestavljena 30. maja 2008 v Dublinu, je vsem državam na voljo za podpis 3. decembra 2008 v Oslu, nato pa na sedežu Združenih narodov v New Yorku do začetka veljavnosti.

## 16. člen

*Ratifikacija, sprejetje, odobritev ali pristop*

1. Konvencijo ratificirajo, sprejmejo ali odobrijo podpisnice.

2. H konvenciji lahko pristopi katera koli država, ki je ni podpisala.

3. Listine o ratifikaciji, sprejetju, odobritvi ali pristopu se hranijo pri depozitarju.

## 17. člen

*Začetek veljavnosti*

1. Konvencija začne veljati prvi dan šestega meseca po mesecu, v katerem je deponirana trideseta listina o ratifikaciji, sprejetju, odobritvi ali pristopu.

2. Za državo, ki deponira listino o ratifikaciji, sprejetju, odobritvi ali pristopu po dnevu deponiranja tridesete listine o ratifikaciji, sprejetju, odobritvi ali pristopu, začne konvencija veljati prvi dan šestega meseca po dnevu, ko je ta država deponirala svojo listino o ratifikaciji, sprejetju, odobritvi ali pristopu.

## 18. člen

*Začasna uporaba*

Država lahko ob ratifikaciji, sprejetju, odobritvi ali pristopu izjavi, da bo začasno uporabljala 1. člen, dokler konvencija ne začne veljati zanjo.

## 19. člen

*Pridržki*

Pridržki k členom konvencije niso dopustni.

## 20. člen

*Trajanje in odpoved*

1. Konvencija velja za nedoločen čas.

2. Država pogodbenica ima pri uresničevanju svoje državne suverenosti pravico odpovedati konvencijo. O tem obvesti vse druge države pogodbenice, depozitarja in Varnostni svet Združenih narodov. Listina o odpovedi vsebuje celovito razlago vzrokov za odpoved.

3. Such withdrawal shall only take effect six months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that six-month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.

## Article 21

*Relations with States not party to this Convention*

1. Each State Party shall encourage States not party to this Convention to ratify, accept, approve or accede to this Convention, with the goal of attracting the adherence of all States to this Convention.

2. Each State Party shall notify the governments of all States not party to this Convention, referred to in paragraph 3 of this Article, of its obligations under this Convention, shall promote the norms it establishes and shall make its best efforts to discourage States not party to this Convention from using cluster munitions.

3. Notwithstanding the provisions of Article 1 of this Convention and in accordance with international law, States Parties, their military personnel or nationals, may engage in military cooperation and operations with States not party to this Convention that might engage in activities prohibited to a State Party.

4. Nothing in paragraph 3 of this Article shall authorise a State Party:

- (a) To develop, produce or otherwise acquire cluster munitions;
- (b) To itself stockpile or transfer cluster munitions;
- (c) To itself use cluster munitions; or
- (d) To expressly request the use of cluster munitions in cases where the choice of munitions used is within its exclusive control.

## Article 22

*Depositary*

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention.

## Article 23

*Authentic texts*

The Arabic, Chinese, English, French, Russian and Spanish texts of this Convention shall be equally authentic.

3. Odpoved začne veljati šest mesecev po tem, ko je depozitar prejel listino o odpovedi. Če ob poteku šestih mesecev država pogodbenica, ki konvencijo odpoveduje, sodeluje v oboroženem spopadu, odpoved začne veljati po končanem oboroženem spopadu.

## 21. člen

*Odnosi z državami, ki niso pogodbenice konvencije*

1. Država pogodbenica spodbuja države, ki niso pogodbenice konvencije, da jo ratificirajo, sprejmejo, odobrijo ali k njej pristopijo, z namenom pritegniti vse države k spoštovanju konvencije.

2. Država pogodbenica uradno obvesti vlade vseh držav, ki niso pogodbenice iz tretjega odstavka, o svojih obveznostih po tej konvenciji, spodbuja norme, ki jih konvencija uvaja, in si po svojih najboljših močeh prizadeva, da bi države, ki niso pogodbenice konvencije, odvrnila od uporabe kasetnega streliva.

3. Ne glede na določbe 1. člena in v skladu z mednarodnim pravom lahko države pogodbenice, njihovo vojaško osebje ali državljani sodelujejo pri vojaškem sodelovanju in operacijah z državami, ki niso pogodbenice konvencije in bi lahko sodelovale pri dejavnostih, ki so prepovedane državi pogodbenici.

4. Določba v tretjem odstavku državi pogodbenici ne dovoljuje, da:

- (a) razvija, proizvaja ali drugače pridobiva kasetno strelivo;
- (b) sama kopiči zaloge kasetnega streliva ali ga prenaša;
- (c) sama uporablja kasetno strelivo ali
- (d) izrecno zahteva uporabo kasetnega streliva, ko ima izključni nadzor nad izbiro streliva.

## 22. člen

*Depozitar*

Za depozitarja konvencije se imenuje generalni sekretar Združenih narodov.

## 23. člen

*Verodostojna besedila*

Besedila konvencije v arabskem, kitajskem, angleškem, francoskem, ruskem in španskem jeziku so enako verodostojna.

## 3. člen

Za izvajanje konvencije skrbi Ministrstvo za obrambo Republike Slovenije.

## 4. člen

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

Št. 213-05/08-1/11

Ljubljana, dne 15. julija 2009

EPA 60-V

Državni zbor  
Republike Slovenije  
**dr. Pavel Gantar** l.r.  
Predsednik

**63. Zakon o ratifikaciji Spremembe Konvencije o fizičnem varovanju jedrskega materiala (MSKFBVJM)**

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

**U K A Z****o razglasitvi Zakona o ratifikaciji Spremembe Konvencije o fizičnem varovanju jedrskega materiala (MSKFBVJM)**

Razlašam Zakon o ratifikaciji Spremembe Konvencije o fizičnem varovanju jedrskega materiala (MSKFBVJM), ki ga je sprejel Državni zbor Republike Slovenije na seji 15. julija 2009.

Št. 003-02-7/2009-14  
Ljubljana, dne 23. julija 2009

**dr. Danilo Türk** l.r.  
Predsednik  
Republike Slovenije

**Z A K O N****O RATIFIKACIJI SPREMEMBE KONVENCIJE O FIZIČNEM VAROVANJU JEDRSKEGA MATERIALA (MSKFBVJM)**

## 1. člen

Ratificira se Sprememba Konvencije o fizičnem varovanju jedrskega materiala, sprejeta na Dunaju 8. julija 2005.

## 2. člen

Besedilo spremembe konvencije se v izvirniku v angleškem jeziku in prevodu v slovenskem jeziku glasi:

**Amendment to the Convention  
on the Physical Protection of Nuclear Material**

1. The Title of the Convention on the Physical Protection of Nuclear Material adopted on 26 October 1979 (hereinafter referred to as "the Convention") is replaced by the following title:

CONVENTION ON THE PHYSICAL PROTECTION OF  
NUCLEAR MATERIAL AND NUCLEAR FACILITIES

2. The Preamble of the Convention is replaced by the following text:

THE STATES PARTIES TO THIS CONVENTION,

RECOGNIZING the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

CONVINCED of the need to facilitate international co-operation and the transfer of nuclear technology for the peaceful application of nuclear energy,

BEARING IN MIND that physical protection is of vital importance for the protection of public health, safety, the environment and national and international security,

HAVING IN MIND the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

CONSIDERING that under the terms of paragraph 4 of Article 2 of the Charter of the United Nations, "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations,"

RECALLING the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994,

**Sprememba Konvencije  
o fizičnem varovanju jedrskega materiala**

1. Naslov Konvencije o fizičnem varovanju jedrskega materiala, sprejete 26. oktobra 1979 (v nadaljevanju konvencija), se spremeni tako, da se glasi:

KONVENCIJA O FIZIČNEM VAROVANJU JEDRSKEGA  
MATERIALA IN JEDRSKIH OBJEKTOV

2. Preambula konvencije se spremeni tako, da se glasi:

DRŽAVE POGODBENICE TE KONVENCIJE

PRIZNAVAJO pravico vseh držav, da razvijajo in uporabljajo jedrsko energijo v miroljubne namene in njihove zakonite interese za potencialne koristi, ki bi jih imela miroljubna uporaba jedrske energije,

SO PREPRIČANE, da je treba spodbujati mednarodno sodelovanje in prenos jedrske tehnologije za miroljubno uporabo jedrske energije,

UPOŠTEVAJO, da je fizično varovanje življenjskega pomena za varovanje javnega zdravja, splošno varnost, varovanje okolja ter nacionalno in mednarodno varnost,

UPOŠTEVAJO cilje in načela Ustanovne listine Združenih narodov glede ohranjanja mednarodnega miru in varnosti in spodbujanja dobrih sosedskih in prijateljskih odnosov in sodelovanja med državami,

GLEDE NA TO, da se na podlagi četrtega odstavka 2. člena Ustanovne listine Združenih narodov »vse članice v svojih mednarodnih odnosih vzdržujejo grožnje s silo ali uporabe sile, ki bi bila naperjena proti ozemeljski nedotakljivosti ali politični neodvisnosti katere koli države ali ki bi bila kako drugače nezdržljiva s cilji Združenih narodov«,

SE SKLICUJEJO na Deklaracijo o ukrepih za odpravo mednarodnega terorizma, ki je priloga resolucije Generalne skupščine 49/60 z dne 9. decembra 1994,

DESIRING to avert the potential dangers posed by illicit trafficking, the unlawful taking and use of nuclear material and the sabotage of nuclear material and nuclear facilities, and noting that physical protection against such acts has become a matter of increased national and international concern,

DEEPLY CONCERNED by the worldwide escalation of acts of terrorism in all its forms and manifestations, and by the threats posed by international terrorism and organized crime,

BELIEVING that physical protection plays an important role in supporting nuclear non-proliferation and counter-terrorism objectives,

DESIRING through this Convention to contribute to strengthening worldwide the physical protection of nuclear material and nuclear facilities used for peaceful purposes,

CONVINCED that offences relating to nuclear material and nuclear facilities are a matter of grave concern and that there is an urgent need to adopt appropriate and effective measures, or to strengthen existing measures, to ensure the prevention, detection and punishment of such offences,

DESIRING to strengthen further international co-operation to establish, in conformity with the national law of each State Party and with this Convention, effective measures for the physical protection of nuclear material and nuclear facilities,

CONVINCED that this Convention should complement the safe use, storage and transport of nuclear material and the safe operation of nuclear facilities,

RECOGNIZING that there are internationally formulated physical protection recommendations that are updated from time to time which can provide guidance on contemporary means of achieving effective levels of physical protection,

RECOGNIZING also that effective physical protection of nuclear material and nuclear facilities used for military purposes is a responsibility of the State possessing such nuclear material and nuclear facilities, and understanding that such material and facilities are and will continue to be accorded stringent physical protection,

HAVE AGREED as follows:

3. In Article 1 of the Convention, after paragraph (c), two new paragraphs are added as follows:

- (d) "nuclear facility" means a facility (including associated buildings and equipment) in which nuclear material is produced, processed, used, handled, stored or disposed of, if damage to or interference with such facility could lead to the release of significant amounts of radiation or radioactive material;
- (e) "sabotage" means any deliberate act directed against a nuclear facility or nuclear material in use, storage or transport which could directly or indirectly endanger the health and safety of personnel, the public or the environment by exposure to radiation or release of radioactive substances.

4. After Article 1 of the Convention, a new Article 1A is added as follows:

#### Article 1 A

The purposes of this Convention are to achieve and maintain worldwide effective physical protection of nuclear material used for peaceful purposes and of nuclear facilities used for peaceful purposes; to prevent and combat offences relating to such material and facilities worldwide; as well as to facilitate cooperation among States Parties to those ends.

ŽELIJO odpraviti potencialne nevarnosti, ki jih povzročajo nedovoljeno trgovanje, protipravni odvzem in uporaba jedrskega materiala ter sabotaža jedrskega materiala in jedrskih objektov, in opazajo, da je fizično varovanje pred takimi dejanji postalo vprašanje povečane državne in mednarodne zaskrbljenosti,

SO MOČNO ZASKRBLJENE zaradi naraščanja terorističnih dejanj v vseh oblikah in pojavih po vsem svetu in zaradi nevarnosti, ki jih sprožata mednarodni terorizem in organiziran kriminal,

VERJAMEJO, da ima fizično varovanje pomembno vlogo pri podpiranju ciljev neširjenja jedrskega orožja in boja proti terorizmu,

ŽELIJO s to konvencijo prispevati h krepitvi fizičnega varovanja jedrskega materiala in jedrskih objektov, ki se uporabljajo v miroljubne namene, po vsem svetu,

SO PREPRIČANE, da so kazniva dejanja v zvezi z jedrskim materialom in jedrskimi objekti vprašanje, ki povzroča resno zaskrbljenost, in da je treba nujno sprejeti ustrezne in učinkovite ukrepe ali okrepiti obstoječe ukrepe za preprečevanje, odkrivanje in kaznovanje takih kaznivih dejanj,

ŽELIJO še nadalje krepiti mednarodno sodelovanje, da bi sprejeli učinkovite ukrepe za fizično varovanje jedrskega materiala in jedrskih objektov v skladu z notranjo zakonodajo vsake države pogodbenice in s to konvencijo,

SO PREPRIČANE, da mora ta konvencija prispevati k varni uporabi, skladiščenju in prevozu jedrskega materiala in varnemu delovanju jedrskih objektov,

PRIZNAVAJO, da obstajajo mednarodno oblikovana priporočila za fizično varovanje, ki se občasno posodablja, in lahko zagotovijo smernice glede sodobnih načinov za doseganje učinkovitih ravni fizičnega varovanja,

PRIZNAVAJO tudi, da je za učinkovito fizično varovanje jedrskega materiala in jedrskih objektov, ki se uporabljajo za vojaške namene, odgovorna država, ki ima tak jedrski material in jedrske objekte, in so prepričane, da je treba tak material in objekte še naprej strogo fizično varovati

SO SE DOGOVORILE:

3. V 1. členu konvencije se za točko c dodata dve novi točki, ki se glasita:

- (d) »jedrski objekt« je objekt (vključno s povezanimi zgradbami in opremo), v katerem se jedrski material proizvaja, predeluje, uporablja, obdeluje, skladišči ali odlaga, če bi poškodba na takem objektu ali poseg vanj lahko privedla do sproščanja precejšnjih količin sevanja ali radioaktivnega materiala;
- (e) »sabotaža« je vsako namerno dejanje, usmerjeno proti jedrskemu objektu ali jedrskemu materialu pri uporabi, skladiščenju ali prevozu, ki bi lahko neposredno ali posredno ogrozilo zdravje in varnost delavcev, prebivalstva ali okolja zaradi izpostavljanja sevanju ali sproščanja radioaktivnih snovi.

4. Za 1. členom konvencije se doda nov 1. A člen, ki se glasi:

#### 1. A člen

Nameni konvencije so doseganje in vzdrževanje učinkovitega fizičnega varovanja jedrskega materiala, ki se uporablja v miroljubne namene, in jedrskih objektov, ki se uporabljajo v miroljubne namene v svetu, preprečevanje kaznivih dejanj v zvezi s takim materialom in objekti v svetu ter boj proti njim kakor tudi olajšanje sodelovanja med državami pogodbenicami v te namene.



5. Article 2 of the Convention is replaced by the following text:

1. This Convention shall apply to nuclear material used for peaceful purposes in use, storage and transport and to nuclear facilities used for peaceful purposes, provided, however, that articles 3 and 4 and paragraph 4 of article 5 of this Convention shall only apply to such nuclear material while in international nuclear transport.

2. The responsibility for the establishment, implementation and maintenance of a physical protection regime within a State Party rests entirely with that State.

3. Apart from the commitments expressly undertaken by States Parties under this Convention, nothing in this Convention shall be interpreted as affecting the sovereign rights of a State.

4. (a) Nothing in this Convention shall affect other rights, obligations and responsibilities of States Parties under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

(b) The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention, and the activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

(c) Nothing in this Convention shall be construed as a lawful authorization to use or threaten to use force against nuclear material or nuclear facilities used for peaceful purposes.

(d) Nothing in this Convention condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws.

5. This Convention shall not apply to nuclear material used or retained for military purposes or to a nuclear facility containing such material.

6. After Article 2 of the Convention, a new Article 2A is added as follows:

#### Article 2A

1. Each State Party shall establish, implement and maintain an appropriate physical protection regime applicable to nuclear material and nuclear facilities under its jurisdiction, with the aim of:

- (a) protecting against theft and other unlawful taking of nuclear material in use, storage and transport;
- (b) ensuring the implementation of rapid and comprehensive measures to locate and, where appropriate, recover missing or stolen nuclear material; when the material is located outside its territory, that State Party shall act in accordance with article 5;
- (c) protecting nuclear material and nuclear facilities against sabotage; and
- (d) mitigating or minimizing the radiological consequences of sabotage.

5. 2. člen konvencije se spremeni tako, da se glasi:

1. Ta konvencija se uporablja za jedrski material, ki se uporablja v miroljubne namene, pri njegovi uporabi, skladiščenju in prevozu ter za jedrske objekte, ki se uporabljajo v miroljubne namene, če se 3. in 4. člen ter četrti odstavek 5. člena te konvencije uporabljajo za tak jedrski material, samo dokler je v mednarodnem jedrskem prevozu.

2. Za vzpostavitev, izvajanje in vzdrževanje režima fizičnega varovanja v posamezni državi pogodbenici je v celoti odgovorna ta država.

3. Razen obveznosti, ki so jih države pogodbenice s to konvencijo izrecno prevzele, se nobena določba te konvencije ne razlaga kot kršitev suverenih pravic države.

4. (a) Nobena določba te konvencije ne vpliva na druge pravice, obveznosti in odgovornosti držav pogodbenic po mednarodnem pravu, zlasti ne na cilje in načela Ustanovne listine Združenih narodov in mednarodnega humanitarnega prava.

(b) Ta konvencija ne ureja dejavnosti oboroženih sil med oboroženim spopadom, kakor se ti izrazi razumejo po mednarodnem humanitarnem pravu, ki se urejajo s tem pravom, prav tako ta konvencija ne ureja dejavnosti, ki jih izvajajo vojaške sile države pri opravljanju svojih uradnih dolžnosti, če se urejajo z drugimi pravili mednarodnega prava.

(c) Nobena določba te konvencije se ne razlaga kot zakonito dovoljenje za uporabo ali grožnjo uporabe sile proti jedrskemu materialu ali jedrskim objektom, ki se uporabljajo v miroljubne namene.

(d) Nobena določba te konvencije ne opravičuje ali pravno ne dopušča dejanj, ki so sicer protipravna, niti ne preprečuje pregona po drugih zakonih.

5. Ta konvencija se ne uporablja za jedrski material, ki se uporablja ali zadržuje za vojaške namene, ali za jedrski objekt, v katerem je tak material.

6. Za 2. členom konvencije se doda nov 2. A člen, ki se glasi:

#### 2. A člen

1. Vsaka država pogodbenica vzpostavi, izvaja in vzdržuje ustrezen režim fizičnega varovanja, ki se uporablja za jedrski material in jedrske objekte pod njeno jurisdikcijo, da:

- (a) zaščiti jedrski material, ki se uporablja, skladišči in prevaža, pred krajo in drugim protipravnim odvzemom;
- (b) zagotovi izvajanje hitrih in vsestranskih ukrepov za odkritje in po potrebi, povrnitev pogrešanega ali ukradenega jedrskega materiala; če je material zunaj njenega ozemlja, država pogodbenica ravna v skladu s 5. členom;
- (c) zaščiti jedrski material in jedrske objekte pred sabotažo, in
- (d) ublaži ali zmanjša radiološke posledice sabotaže.

2. In implementing paragraph 1, each State Party shall:
- (a) establish and maintain a legislative and regulatory framework to govern physical protection;
  - (b) establish or designate a competent authority or authorities responsible for the implementation of the legislative and regulatory framework; and
  - (c) take other appropriate measures necessary for the physical protection of nuclear material and nuclear facilities.

3. In implementing the obligations under paragraphs 1 and 2, each State Party shall, without prejudice to any other provisions of this Convention, apply insofar as is reasonable and practicable the following Fundamental Principles of Physical Protection of Nuclear Material and Nuclear Facilities.

**FUNDAMENTAL PRINCIPLE A: *Responsibility of the State***

The responsibility for the establishment, implementation and maintenance of a physical protection regime within a State rests entirely with that State.

**FUNDAMENTAL PRINCIPLE B: *Responsibilities During International Transport***

The responsibility of a State for ensuring that nuclear material is adequately protected extends to the international transport thereof, until that responsibility is properly transferred to another State, as appropriate.

**FUNDAMENTAL PRINCIPLE C: *Legislative and Regulatory Framework***

The State is responsible for establishing and maintaining a legislative and regulatory framework to govern physical protection. This framework should provide for the establishment of applicable physical protection requirements and include a system of evaluation and licensing or other procedures to grant authorization. This framework should include a system of inspection of nuclear facilities and transport to verify compliance with applicable requirements and conditions of the license or other authorizing document, and to establish a means to enforce applicable requirements and conditions, including effective sanctions.

**FUNDAMENTAL PRINCIPLE D: *Competent Authority***

The State should establish or designate a competent authority which is responsible for the implementation of the legislative and regulatory framework, and is provided with adequate authority, competence and financial and human resources to fulfill its assigned responsibilities. The State should take steps to ensure an effective independence between the functions of the State's competent authority and those of any other body in charge of the promotion or utilization of nuclear energy.

**FUNDAMENTAL PRINCIPLE E: *Responsibility of the License Holders***

The responsibilities for implementing the various elements of physical protection within a State should be clearly identified. The State should ensure that the prime responsibility for the implementation of physical protection of nuclear material or of nuclear facilities rests with the holders of the relevant licenses or of other authorizing documents (e.g., operators or shippers).

**FUNDAMENTAL PRINCIPLE F: *Security Culture***

All organizations involved in implementing physical protection should give due priority to the security culture, to its development and maintenance necessary to ensure its effective implementation in the entire organization.

2. Pri izvajanju prvega odstavka vsaka država pogodbenica:

- (a) sprejema in izvaja zakone in druge predpise za urejanje fizičnega varovanja;
- (b) ustanovi ali imenuje pristojni organ ali organe, ki so odgovorni za izvajanje zakonov in drugih predpisov, in
- (c) sprejema druge ustrezne ukrepe, potrebne za fizično varovanje jedrskega materiala in jedrskih objektov.

3. Pri izvajanju obveznosti iz prvega in drugega odstavka vsaka država pogodbenica ne glede na druge določbe te konvencije uporablja, če je primerno in izvedljivo, navedena temeljna načela fizičnega varovanja jedrskega materiala in jedrskih objektov:

**TEMELJNO NAČELO A: *Odgovornost države***

Država je v celoti odgovorna za vzpostavitev, izvajanje in vzdrževanje režima fizičnega varovanja v državi.

**TEMELJNO NAČELO B: *Odgovornosti med mednarodnim prevozom***

Odgovornost države za zagotavljanje ustreznega varovanja jedrskega materiala vključuje njegov mednarodni prevoz do trenutka, ko se ta odgovornost pravilno, kot je primerno, prenese na drugo državo.

**TEMELJNO NAČELO C: *Zakoni in drugi predpisi***

Država je odgovorna za sprejemanje in izvajanje zakonov in drugih predpisov za urejanje fizičnega varovanja. Ti zakoni in drugi predpisi naj vsebujejo zahteve za fizično varovanje ter sistem ocenjevanja in podeljevanja dovoljenj ali drugih postopkov za izdajanje pooblastil. Vključujejo naj sistem nadzora jedrskih objektov in prevoza zaradi preverjanja skladnosti z veljavnimi zahtevami in pogoji dovoljenja ali drugega pooblastila ter zagotavljanja načina za uveljavitev veljavnih zahtev in pogojev, vključno z učinkovitimi sankcijami.

**TEMELJNO NAČELO D: *Pristojni organ***

Država naj ustanovi ali imenuje pristojen organ, ki je odgovoren za izvajanje zakonov in drugih predpisov in ima ustrezna pooblastila, pristojnosti ter finančna sredstva in kadre za izpolnjevanje dodeljenih odgovornosti. Država naj z ustreznimi ukrepi zagotovi učinkovito neodvisnost med nalogami pristojnega državnega organa in nalogami katerega koli drugega organa, odgovornega za spodbujanje ali uporabo jedrske energije.

**TEMELJNO NAČELO E: *Odgovornost imetnikov dovoljenj***

Odgovornosti za izvajanje različnih delov fizičnega varovanja v državi je treba jasno določiti. Država naj zagotovi, da so za izvajanje fizičnega varovanja jedrskega materiala ali jedrskih objektov primarno odgovorni imetniki ustreznih dovoljenj ali drugih pooblastil (npr. uporabniki ali prevozniki).

**TEMELJNO NAČELO F: *Varnostna kultura***

Vse organizacije, ki sodelujejo pri fizičnem varovanju, morajo dati potrebno prednost varnostni kulturi, njenemu razvoju in ohranjanju, ki sta potrebna za zagotovitev njenega učinkovitega izvajanja v celotni organizaciji.

**FUNDAMENTAL PRINCIPLE G: Threat**

The State's physical protection should be based on the State's current evaluation of the threat.

**FUNDAMENTAL PRINCIPLE H: Graded Approach**

Physical protection requirements should be based on a graded approach, taking into account the current evaluation of the threat, the relative attractiveness, the nature of the material and potential consequences associated with the unauthorized removal of nuclear material and with the sabotage against nuclear material or nuclear facilities.

**FUNDAMENTAL PRINCIPLE I: Defence in Depth**

The State's requirements for physical protection should reflect a concept of several layers and methods of protection (structural or other technical, personnel and organizational) that have to be overcome or circumvented by an adversary in order to achieve his objectives.

**FUNDAMENTAL PRINCIPLE J: Quality Assurance**

A quality assurance policy and quality assurance programmes should be established and implemented with a view to providing confidence that specified requirements for all activities important to physical protection are satisfied.

**FUNDAMENTAL PRINCIPLE K: Contingency Plans**

Contingency (emergency) plans to respond to unauthorized removal of nuclear material or sabotage of nuclear facilities or nuclear material, or attempts thereof, should be prepared and appropriately exercised by all license holders and authorities concerned.

**FUNDAMENTAL PRINCIPLE L: Confidentiality**

The State should establish requirements for protecting the confidentiality of information, the unauthorized disclosure of which could compromise the physical protection of nuclear material and nuclear facilities.

4. (a) The provisions of this article shall not apply to any nuclear material which the State Party reasonably decides does not need to be subject to the physical protection regime established pursuant to paragraph 1, taking into account the nature of the material, its quantity and relative attractiveness and the potential radiological and other consequences associated with any unauthorized act directed against it and the current evaluation of the threat against it.

(b) Nuclear material which is not subject to the provisions of this article pursuant to sub-paragraph (a) should be protected in accordance with prudent management practice.

7. Article 5 of the Convention is replaced by the following text:

1. States Parties shall identify and make known to each other directly or through the International Atomic Energy Agency their point of contact in relation to matters within the scope of this Convention.

2. In the case of theft, robbery or any other unlawful taking of nuclear material or credible threat thereof, States Parties shall, in accordance with their national law, provide cooperation and assistance to the maximum feasible extent in the recovery and protection of such material to any State that so requests. In particular:

**TEMELJNO NAČELO G: Ogroženost**

Fizično varovanje države naj temelji na trenutni državni oceni ogroženosti.

**TEMELJNO NAČELO H: Stopnjevan pristop**

Zahteve za fizično varovanje naj temeljijo na stopnjevanem pristopu ob upoštevanju trenutne ocene ogroženosti, relativne privlačnosti, lastnosti materiala in možnih posledic, povezanih z nepooblaščenim odvzemom jedrskega materiala in sabotažo jedrskega materiala ali jedrskih objektov.

**TEMELJNO NAČELO I: Obramba v globino**

Državne zahteve za fizično varovanje naj bodo zasnovane na več ravneh in s kombinacijo metod varovanja (strukturna ali druga tehnična, kadrovska in organizacijska), ki jih mora nasprotnik premagati ali obiti, da bi dosegel svoje cilje.

**TEMELJNO NAČELO J: Zagotavljanje kakovosti**

Treba je vzpostaviti in izvajati politiko in programe za zagotavljanje kakovosti za zagotovitev zaupanja, da so izpolnjene natančno določene zahteve za vse dejavnosti, pomembne za fizično varovanje.

**TEMELJNO NAČELO K: Načrti za izredne razmere**

Vsi imetniki dovoljenj in pristojni organi morajo pripraviti načrte za izredne (nujne) razmere, ukrepanje ob nepooblaščenem odvzemu jedrskega materiala ali sabotaži jedrskih objektov ali jedrskega materiala ali tovrstnih poskusih.

**TEMELJNO NAČELO L: Zaupnost**

Država mora določiti zahteve za zaščito zaupnosti informacij, katerih nepooblaščen razkritje bi lahko ogrozilo fizično varovanje jedrskega materiala in jedrskih objektov.

4. (a) Ta člen se ne uporablja za jedrski material, za katerega se država upravičeno odloči, da ne potrebuje režima fizičnega varovanja, vzpostavljenega v skladu s prvim odstavkom, ob upoštevanju lastnosti materiala, njegove količine in relativne privlačnosti ter možnih radioloških in drugih posledic, povezanih s kakršnim koli nepooblaščenim dejanjem, usmerjenim proti njemu, ter trenutno oceno njegove ogroženosti.

(b) Jedrski material, za katerega se v skladu s prejšnjo točko četrtega odstavka ta člen ne uporablja, je treba varovati v skladu s prakso preudarnega upravljanja.

7. 5. člen konvencije se spremeni tako, da se glasi:

1. Države pogodbenice določijo svoje točke za stike v zvezi z zadevami s področja uporabe konvencije ter se o tem medsebojno obvestijo neposredno ali prek Mednarodne agencije za atomsko energijo.

2. Pri tatvini, ropu ali drugem nezakonitem odnašanju jedrskega materiala ali verjetnosti takih dejanj države pogodbenice v skladu s svojim notranjim pravom sodelujejo in pomagajo vrniti in zavarovati tak material vsaki državi, ki to zahteva. Zlasti:

- (a) a State Party shall take appropriate steps to inform as soon as possible other States, which appear to it to be concerned, of any theft, robbery or other unlawful taking of nuclear material or credible threat thereof, and to inform, where appropriate, the International Atomic Energy Agency and other relevant international organizations;
- (b) in doing so, as appropriate, the States Parties concerned shall exchange information with each other, the International Atomic Energy Agency and other relevant international organizations with a view to protecting threatened nuclear material, verifying the integrity of the shipping container or recovering unlawfully taken nuclear material and shall:
- (i) co-ordinate their efforts through diplomatic and other agreed channels;
- (ii) render assistance, if requested;
- (iii) ensure the return of recovered nuclear material stolen or missing as a consequence of the above-mentioned events.
- (a) država pogodbenica ustrezno ukrepa, tako da o vsaki tatvini, ropu ali drugem nezakonitem odnašanju jedrskega materiala ali verjetnosti takih dejanj čim prej obvesti druge države, za katere meni, da so za to zainteresirane, po potrebi pa tudi Mednarodno agencijo za atomsko energijo in druge ustrezne mednarodne organizacije;
- (b) zainteresirane države pogodbenice po potrebi izmenjavajo informacije med seboj, z Mednarodno agencijo za atomsko energijo in drugimi ustreznimi mednarodnimi organizacijami, da bi zavarovale ogroženi jedrski material, preverile nedotaknjenost zabojnika za prevoz ali povrnile protipravno odneseni material ter pri tem:
- (i) usklajujejo svoja prizadevanja po diplomatskih in drugih poteh, o katerih dosežejo soglasje;
- (ii) pomagajo, če kdo zahteva;
- (iii) zagotovijo vrnitev odkritega jedrskega materiala, ki je bil ukraden ali pogrešan kot posledica omenjenih okoliščin.

The means of implementation of this co-operation shall be determined by the States Parties concerned.

Način, kako uresničevati sodelovanje, določijo zainteresirane države pogodbenice.

3. In the case of a credible threat of sabotage of nuclear material or a nuclear facility or in the case of sabotage thereof, States Parties shall, to the maximum feasible extent, in accordance with their national law and consistent with their relevant obligations under international law, cooperate as follows:

3. Ob zelo verjetni nevarnosti ali sabotaži jedrskega materiala ali jedrskega objekta države pogodbenice čim bolj sodelujejo med seboj v skladu s svojim notranjim pravom in svojimi ustreznimi obveznostmi po mednarodnem pravu, kot sledi:

- (a) if a State Party has knowledge of a credible threat of sabotage of nuclear material or a nuclear facility in another State, the former shall decide on appropriate steps to be taken in order to inform that State as soon as possible and, where appropriate, the International Atomic Energy Agency and other relevant international organizations of that threat, with a view to preventing the sabotage;
- (b) in the case of sabotage of nuclear material or a nuclear facility in a State Party and if in its view other States are likely to be radiologically affected, the former, without prejudice to its other obligations under international law, shall take appropriate steps to inform as soon as possible the State or the States which are likely to be radiologically affected and to inform, where appropriate, the International Atomic Energy Agency and other relevant international organizations, with a view to minimizing or mitigating the radiological consequences thereof;
- (c) if in the context of sub-paragraphs (a) and (b), a State Party requests assistance, each State Party to which a request for assistance is directed shall promptly decide and notify the requesting State Party, directly or through the International Atomic Energy Agency, whether it is in a position to render the assistance requested and the scope and terms of the assistance that may be rendered;
- (d) co-ordination of the co-operation under sub-paragraphs (a) to (c) shall be through diplomatic or other agreed channels. The means of implementation of this co-operation shall be determined bilaterally or multilaterally by the States Parties concerned.
- (a) če država pogodbenica izve za zelo verjetno nevarnost sabotaže jedrskega materiala ali jedrskega objekta v drugi državi, se odloči o ustreznih ukrepih z namenom, da o tej nevarnosti čim prej obvesti to državo, po potrebi pa tudi Mednarodno agencijo za atomsko energijo in druge ustrezne mednarodne organizacije, da prepreči sabotažo;
- (b) pri sabotaži jedrskega materiala ali jedrskega objekta v državi pogodbenici in če so po njenem mnenju verjetni radiološki vplivi v drugih državah, država pogodbenica ne glede na druge obveznosti po mednarodnem pravu ustrezno ukrepa in čim prej obvesti državo ali države, v katerih bo verjeten radiološki vpliv, po potrebi pa obvesti tudi Mednarodno agencijo za atomsko energijo in druge ustrezne mednarodne organizacije, da se ublažijo ali zmanjšajo radiološke posledice sabotaže;
- (c) če v okoliščinah iz točk a in b država pogodbenica zaprosi za pomoč, se vsaka država pogodbenica, ki ji je zaprosilo za pomoč namenjeno, takoj odloči in neposredno ali prek Mednarodne agencije za atomsko energijo sporoči državi pogodbenici, ki prosi za pomoč, ali lahko zaprošeno pomoč zagotovi, ter obseg in pogoje pomoči, ki jih lahko zagotovi;
- (d) usklajevanje sodelovanja iz točk a do c teče po diplomatskih ali drugih dogovorjenih poteh. Način, kako uresničevati to sodelovanje, določijo zainteresirane države pogodbenice dvostransko ali večstransko.



4. States Parties shall co-operate and consult, as appropriate, with each other directly or through the International Atomic Energy Agency and other relevant international organizations, with a view to obtaining guidance on the design, maintenance and improvement of systems of physical protection of nuclear material in international transport.

5. A State Party may consult and co-operate, as appropriate, with other States Parties directly or through the International Atomic Energy Agency and other relevant international organizations, with a view to obtaining their guidance on the design, maintenance and improvement of its national system of physical protection of nuclear material in domestic use, storage and transport and of nuclear facilities.

8. Article 6 of the Convention is replaced by the following text:

1. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention from another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organizations or to States that are not parties to this Convention in confidence, steps shall be taken to ensure that the confidentiality of such information is protected. A State Party that has received information in confidence from another State Party may provide this information to third parties only with the consent of that other State Party.

2. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material or nuclear facilities.

9. Paragraph 1 of Article 7 of the Convention is replaced by the following text:

1. The intentional commission of:

(a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property or to the environment;

(b) a theft or robbery of nuclear material;

(c) an embezzlement or fraudulent obtaining of nuclear material;

(d) an act which constitutes the carrying, sending, or moving of nuclear material into or out of a State without lawful authority;

(e) an act directed against a nuclear facility, or an act interfering with the operation of a nuclear facility, where the offender intentionally causes, or where he knows that the act is likely to cause, death or serious injury to any person or substantial damage to property or to the environment by exposure to radiation or release of radioactive substances, unless the act is undertaken in conformity with the national law of the State Party in the territory of which the nuclear facility is situated;

4. Države pogodbenice se po potrebi posvetujejo in medsebojno sodelujejo neposredno ali prek Mednarodne agencije za atomsko energijo in drugih ustreznih mednarodnih organizacij, da si zagotovijo smernice za načrtovanje, vzdrževanje in izboljšanje sistemov fizičnega varovanja jedrskega materiala v mednarodnem prevozu.

5. Država pogodbenica se lahko po potrebi posvetuje in sodeluje z drugimi državami pogodbenicami neposredno ali prek Mednarodne agencije za atomsko energijo in drugih ustreznih mednarodnih organizacij, da si zagotovi njihove smernice za načrtovanje, vzdrževanje in izboljšanje svojega notranjega sistema fizičnega varovanja jedrskih objektov in jedrskega materiala pri notranji uporabi, skladiščenju in prevozu.

8. 6. člen konvencije se spremeni tako, da se glasi:

1. Države pogodbenice ustrezno ukrepajo v skladu s svojim notranjim pravom, da bi zavarovale informacije, ki jih po tej konvenciji prejmejo kot zaupne od druge države pogodbenice ali na podlagi udeležbe v kakšni dejavnosti pri izvajanju te konvencije. Če države pogodbenice pošljejo informacije kot zaupne mednarodnim organizacijam ali državam, ki niso pogodbenice te konvencije, se ukrene vse potrebno za varovanje tajnosti teh informacij. Država pogodbenica, ki je prejela zaupne informacije od druge države pogodbenice, sme te informacije poslati tretjim le na podlagi soglasja te države pogodbenice.

2. V skladu s to konvencijo se od nobene države pogodbenice ne sme zahtevati, da pošlje informacije, ki jih v skladu z notranjim pravom ne sme sporočiti, ali bi utegnile ogroziti njeno varnost ali fizično varovanje jedrskega materiala ali jedrskih objektov.

9. Prvi odstavek 7. člena konvencije se spremeni tako, da se glasi:

1. Naslednja naklepno storjena dejanja:

(a) neupravičeno sprejemanje, posest, uporaba, prenos, sprememba, odlaganje ali razširjanje jedrskega materiala, ki povzroči ali utegne povzročiti smrt ali resno poškodbo katere koli osebe ali precejšnjo premoženjsko ali okoljsko škodo;

(b) tatvina ali rop jedrskega materiala;

(c) pridobitev jedrskega materiala z goljufijo ali poneverbo;

(d) dejanje, ki pomeni prenašanje, pošiljanje ali premikanje jedrskega materiala v državo ali iz nje brez zakonskega pooblastila;

(e) dejanje, usmerjeno proti jedrskemu objektu, ali dejanje, ki posega v delovanje jedrskega objekta, pri čemer storilec naklepno povzroči ali ve, da je verjetno, da bo dejanje povzročilo smrt ali hudo poškodbo katere koli osebe ali precejšnjo premoženjsko ali okoljsko škodo zaradi izpostavljenosti sevanju ali sproščanja radioaktivnih snovi, razen če je dejanje storjeno v skladu z notranjim pravom države pogodbenice, na katere ozemlju je jedrski objekt;

- (f) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;
- (g) a threat:
- (i) to use nuclear material to cause death or serious injury to any person or substantial damage to property or to the environment or to commit the offence described in sub-paragraph (e), or
- (ii) to commit an offence described in sub-paragraphs (b) and (e) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;
- (h) an attempt to commit any offence described in sub-paragraphs (a) to (e);
- (i) an act which constitutes participation in any offence described in subparagraphs (a) to (h);
- (j) an act of any person who organizes or directs others to commit an offence described in sub-paragraphs (a) to (h); and
- (k) an act which contributes to the commission of any offence described in sub-paragraphs (a) to (h) by a group of persons acting with a common purpose; such act shall be intentional and shall either:
- (i) be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence described in sub-paragraphs (a) to (g), or
- (ii) be made in the knowledge of the intention of the group to commit an offence described in sub-paragraphs (a) to (g)
- (f) vsaka zahteva za jedrski material z grožnjo uporabe sile ali z uporabo sile ali drugega načina ustrahovanja;
- (g) grožnja:
- (i) da se bo jedrski material uporabil tako, da bo povzročil smrt ali resno poškodbo katere koli osebe ali precejšnjo premoženjsko ali okoljsko škodo ali da bo storjeno kaznivo dejanje iz točke e, ali
- (ii) da bo storjeno kaznivo dejanje iz točk b in e, da bi bila katera koli fizična ali pravna oseba, mednarodna organizacija ali država prisiljena, da stori ali opusti katero koli dejanje;
- (h) poskus storitve katerega koli dejanja iz točk a do e;
- (i) dejanje, ki pomeni udeležbo pri katerem koli dejanju iz točk a do h;
- (j) dejanje katere koli osebe, ki organizira ali usmerja druge k storitvi kaznivega dejanja iz točk a do h, in
- (k) dejanje, ki pripomore k storitvi kaznivega dejanja iz točk a do h, ki ga stori skupina oseb, ki delujejo s skupnim namenom; tako dejanje je naklepno in je:
- (i) storjeno z namenom spodbujanja kriminalne dejavnosti ali namena skupine, kadar taka dejavnost ali namen vključuje storitev kaznivega dejanja iz točk a do g, ali
- (ii) storjeno ob poznavanju namena skupine, da bo storila kaznivo dejanje iz točk a do g,

shall be made a punishable offence by each State Party under its national law.

bodo kazniva po notranjem pravu vsake države pogodbenice.

10. After Article 11 of the Convention, two new articles, Article 11 A and Article 11 B, are added as follows:

10. Za 11. členom konvencije se dodata dva nova člena, 11. A člen in 11. B člen, ki se glasita:

#### Article 11 A

#### 11. A člen

None of the offences set forth in article 7 shall be regarded for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Nobeno kaznivo dejanje iz 7. člena se za namene izročitve ali vzajemne pravne pomoči ne šteje kot politično kaznivo dejanje ali kaznivo dejanje, povezano s političnim kaznivim dejanjem ali kot politično motivirano kaznivo dejanje. Zato zaprosilo za izročitev ali vzajemno pravno pomoč, ki temelji na takem kaznivem dejanju, ne sme biti zavrnjeno izključno z utemeljitvijo, da je to politično kaznivo dejanje ali kaznivo dejanje, povezano s političnim kaznivim dejanjem, ali politično motivirano kaznivo dejanje.

#### Article 11 B

#### 11. B člen

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 7 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Nobena določba te konvencije se ne razlaga kot obveznost izročitve ali zagotovitve vzajemne pravne pomoči, če ima zaprosena država pogodbenica utemeljene razloge za domnevo, da je bilo zaprosilo za izročitev zaradi kaznivih dejanj iz 7. člena ali za vzajemno pravno pomoč v zvezi s takimi kaznivimi dejanji poslano z namenom preganjanja ali kaznovanja osebe zaradi njene rase, veroizpovedi, narodnosti, etnične pripadnosti ali političnega prepričanja ali da bi ravnanje v skladu z zaprosilom povzročilo poseg v njen položaj iz katerega koli od teh razlogov.

11. After Article 13 of the Convention, a new Article 13 A is added as follows:

Article 13 A

Nothing in this Convention shall affect the transfer of nuclear technology for peaceful purposes that is undertaken to strengthen the physical protection of nuclear material and nuclear facilities.

12. Paragraph 3 of Article 14 of the Convention is replaced by the following text:

3. Where an offence involves nuclear material in domestic use, storage or transport, and both the alleged offender and the nuclear material remain in the territory of the State Party in which the offence was committed, or where an offence involves a nuclear facility and the alleged offender remains in the territory of the State Party in which the offence was committed, nothing in this Convention shall be interpreted as requiring that State Party to provide information concerning criminal proceedings arising out of such an offence.

13. Article 16 of the Convention is replaced by the following text:

1. A conference of States Parties shall be convened by the depositary five years after the entry into force of the Amendment adopted on 8 July 2005 to review the implementation of this Convention and its adequacy as concerns the preamble, the whole of the operative part and the annexes in the light of the then prevailing situation.

2. At intervals of not less than five years thereafter, the majority of States Parties may obtain, by submitting a proposal to this effect to the depositary, the convening of further conferences with the same objective.

14. Footnote <sup>b/</sup> of Annex II of the Convention is replaced by the following text:

<sup>b/</sup> Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 1 gray/hour (100 rads/hour) at one metre unshielded.

15. Footnote <sup>e/</sup> of Annex II of the Convention is replaced by the following text:

<sup>e/</sup> Other fuel which by virtue of its original fissile material content is classified as Category I and II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 1 gray/hour (100 rads/hour) at one metre unshielded.

11. Za 13. členom konvencije se doda nov 13. A člen, ki se glasi:

13. A člen

Nobena določba v tej konvenciji ne vpliva na prenos jedrske tehnologije v miroljubne namene, ki se izvede zaradi krepitev fizičnega varovanja jedrskega materiala in jedrskih objektov.

12. Tretji odstavek 14. člena konvencije se spremeni tako, da se glasi:

3. Kadar se kaznivo dejanje nanaša na jedrski material pri uporabi, skladiščenju ali prevozu v državi pogodbenici, domnevni storilec in jedrski material pa ostaneta na ozemlju države pogodbenice, na katerem je bilo to kaznivo dejanje storjeno, ali kadar kaznivo dejanje vključuje jedrski objekt in domnevni storilec ostane na ozemlju države pogodbenice, v kateri je bilo kaznivo dejanje storjeno, se nobena določba te konvencije ne razlaga kot obveznost te države pogodbenice, da daje obvestila o kazenskem postopku, ki teče zaradi takega kaznivega dejanja.

13. 16. člen konvencije se spremeni tako, da se glasi:

1. Depozitar skliče konferenco držav pogodbenic pet let po začetku veljavnosti sprememb, sprejetih 8. julija 2005, da se preverita izvajanje te konvencije in njena ustreznost, kar zadeva preambulo, celoten izvedbeni del in priloge z vidika takratnih razmer.

2. Večina držav pogodbenic lahko zatem v ne manj kot petletnih presledkih skliče nadaljnje konference z istim namenom tako, da to predlaga depozitarju.

14. Opomba <sup>b/</sup> Priloge II konvencije se spremeni tako, da se glasi:

<sup>b/</sup> Material, ki ni bil obsevan v reaktorju, ali material, ki je bil obsevan v reaktorju, pri čemer je stopnja obsevanosti 1 gray/uro (100 rad/uro) ali manj v razdalji enega metra brez zaslona.

15. Opomba <sup>e/</sup> Priloge II konvencije se spremeni tako, da se glasi:

<sup>e/</sup> Drugo gorivo, ki se po svojem prvotnem deležu fisij-skega materiala razvršča kot material iz I. in II. kategorije pred obsevanjem, se lahko uvrsti za eno kategorijo nižje, medtem ko je stopnja obsevanosti večja od 1 gray/uro (100 rad/uro) v razdalji enega metra brez zaslona.

3. člen

Za izvajanje spremembe konvencije skrbi Ministrstvo za notranje zadeve.

4. člen

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

Št. 801-10/09-6/8  
Ljubljana, dne 15. julija 2009  
EPA 285-IV

Državni zbor  
Republike Slovenije  
**dr. Pavel Gantar** l.r.  
Predsednik

**64. Zakon o ratifikaciji Dodatnega protokola h Konvenciji o človekovih pravicah v zvezi z biomedicino glede genetskega testiranja za zdravstvene namene (MDPKČPB)**

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

**U K A Z****o razglasitvi Zakona o ratifikaciji Dodatnega protokola h Konvenciji o človekovih pravicah v zvezi z biomedicino glede genetskega testiranja za zdravstvene namene (MDPKČPB)**

Razglašam Zakon o ratifikaciji Dodatnega protokola h Konvenciji o človekovih pravicah v zvezi z biomedicino glede genetskega testiranja za zdravstvene namene (MDPKČPB), ki ga je sprejel Državni zbor Republike Slovenije na seji 15. julija 2009.

Št. 003-02-7/2009-17

Ljubljana, dne 23. julija 2009

**dr. Danilo Türk** l.r.  
Predsednik  
Republike Slovenije

**Z A K O N****O RATIFIKACIJI DODATNEGA PROTOKOLA H KONVENCIJI O ČLOVEKOVIH PRAVICAH V ZVEZI Z BIOMEDICINO GLEDE GENETSKEGA TESTIRANJA ZA ZDRAVSTVENE NAMENE (MDPKČPB)**

## 1. člen

Ratificira se Dodatni protokol h Konvenciji o človekovih pravicah v zvezi z biomedicino glede genetskega testiranja za zdravstvene namene, sestavljen v Strasbourg 27. novembra 2008.

## 2. člen

Besedilo dodatnega protokola se v izvorniku v angleškem jeziku in v prevodu v slovenskem jeziku glasi:

**Additional Protocol  
to the Convention on Human Rights  
and Biomedicine concerning  
Genetic Testing for Health Purposes**

Strasbourg, 27. XI. 2008

**Preamble**

The member States of the Council of Europe, the other States and the European Community, signatories to this Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (hereinafter referred to as "the Convention on Human Rights and Biomedicine", ETS No. 164),

Considering that the aim of the Council of Europe is the achievement of greater unity between its members and that one of the methods by which this aim is pursued is the maintenance and further realisation of human rights and fundamental freedoms;

Considering that the aim of the Convention on Human Rights and Biomedicine, as defined in Article 1, is to protect the dignity and identity of all human beings and guarantee everyone, without discrimination, respect for their integrity and other rights and fundamental freedoms with regard to the application of biology and medicine;

Bearing in mind the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) of 28 January 1981;

Bearing in mind the work carried out by other intergovernmental organisations, in particular the Universal Declaration on the Human Genome and Human Rights, endorsed by the General Assembly of the United Nations on 9 December 1998;

Recalling that the human genome is shared by all human beings, thereby forming a mutual bond between them while slight variations contribute to the individuality of each human being;

**Dodatni protokol  
h Konvenciji o človekovih pravicah  
v zvezi z biomedicino glede genetskega  
testiranja za zdravstvene namene**

Strasbourg, 27. XI. 2008

**Preambula**

Države članice Sveta Evrope, druge države in Evropska skupnost, podpisnice tega dodatnega protokola h Konvenciji o varstvu človekovih pravic in dostojanstva človeškega bitja v zvezi z uporabo biologije in medicine (v nadaljnjem besedilu »Konvencija o človekovih pravicah v zvezi z biomedicino«, ETS št. 164), so se,

ker je cilj Sveta Evrope ustvariti večjo enotnost med njegovimi članicami in ker je eden od načinov za uresničevanje tega cilja ohranjanje in nadaljnje uveljavljanje človekovih pravic in temeljnih svoboščin;

ob upoštevanju, da je cilj Konvencije o človekovih pravicah v zvezi z biomedicino, kakor je opredeljen v 1. členu, varovati dostojanstvo in identiteto vseh človeških bitij ter vsakomur brez razlikovanja jamčiti spoštovanje njegove duševne in telesne nedotakljivosti ter drugih pravic in temeljnih svoboščin v zvezi z uporabo biologije in medicine;

ob upoštevanju Konvencije o varstvu posameznikov glede na avtomatsko obdelavo osebnih podatkov (ETS št. 108) z dne 28. januarja 1981;

ob upoštevanju dela, ki so ga opravile druge medvladne organizacije, zlasti pa Splošne deklaracije o človeškem genomu in človekovih pravicah, ki jo je 9. decembra 1998 sprejela Generalna skupščina Združenih narodov;

ker se sklicujejo na to, da je človeški genom skupen vsem človeškim bitjem, kar jih medsebojno povezuje, drobne razlike pa pripomorejo, da ima vsako človeško bitje lastno individualnost;



Stressing the particular bond that exists between members of the same family;

Considering that progress in medical science can contribute to saving lives and improving their quality;

Acknowledging the benefit of genetics, in particular genetic testing, in the field of health;

Considering that genetic services in the field of health form an integral part of the health services offered to the population and recalling the importance of taking appropriate measures, taking into account health needs and available resources, with a view to providing equitable access to genetic services of appropriate quality;

Aware also of the concerns that exist regarding possible improper use of genetic testing, in particular of the information generated thereby;

Reaffirming the fundamental principle of respect for human dignity and the prohibition of all forms of discrimination, in particular those based on genetic characteristics;

Taking into account national and international professional standards in the field of genetic services and the previous work of the Committee of Ministers and the Parliamentary Assembly of the Council of Europe in this field;

Resolving to take such measures as are necessary to safeguard human dignity and the fundamental rights and freedoms of the individual with regard to genetic testing for health purposes,

Have agreed as follows:

## Chapter I – Object and scope

### Article 1 – Object and purpose

Parties to this Protocol shall protect the dignity and identity of all human beings and guarantee everyone, without discrimination, respect for their integrity and other rights and fundamental freedoms with regard to the tests to which this Protocol applies in accordance with Article 2.

### Article 2 – Scope

1 This Protocol applies to tests, which are carried out for health purposes, involving analysis of biological samples of human origin and aiming specifically to identify the genetic characteristics of a person which are inherited or acquired during early prenatal development (hereinafter referred to as "genetic tests").

2 This Protocol does not apply:

a to genetic tests carried out on the human embryo or foetus;

b to genetic tests carried out for research purposes.

3 For the purposes of paragraph 1:

a "analysis" refers to:

i chromosomal analysis,

ii DNA or RNA analysis,

iii analysis of any other element enabling information to be obtained which is equivalent to that obtained with the methods referred to in sub-paragraphs a.i. and a.ii.;

b "biological samples" refers to:

i biological materials removed for the purpose of the test concerned,

ii biological materials previously removed for another purpose.

## Chapter II – General provisions

### Article 3 – Primacy of the human being

The interests and welfare of the human being concerned by genetic tests covered by this Protocol shall prevail over the sole interest of society or science.

### Article 4 – Non-discrimination and non-stigmatisation

1 Any form of discrimination against a person, either as an individual or as a member of a group on grounds of his or her genetic heritage is prohibited.

ker poudarjajo posebno vez, ki obstaja med člani iste družine;

ob upoštevanju, da lahko napredek v medicini pripomore k reševanju življenj in izboljšanju kakovosti življenja;

ob priznavanju koristi genetike, posebej še genetskega testiranja, na področju zdravstva;

odločene, da so genetske storitve na področju zdravstva sestavni del javne zdravstvene ponudbe, in ob opozarjanju na pomen ustreznih ukrepov, ki jih je treba sprejeti ob upoštevanju zdravstvenih potreb in razpoložljivih virov, da se zagotovi enakopraven dostop do genetskih storitev ustreznе kakovosti;

ker se zavedajo tudi pomislekov glede možne nepravilne uporabe genetskega testiranja, še posebej pa s tem pridobljenih informacij;

ker ponovno potrjujejo temeljno načelo spoštovanja človeškega dostojanstva in prepoved vseh oblik diskriminacije, zlasti še tistih, ki temeljijo na genetskih značilnostih;

ob upoštevanju državnih in mednarodnih strokovnih standardov na področju genetskih storitev ter preteklega dela Odbora ministrov in Parlamentarne skupščine Sveta Evrope na tem področju;

odločene, da sprejmejo take ukrepe, kot so potrebni za zaščito človeškega dostojanstva ter temeljnih pravic in svoboščin posameznika v zvezi z genetskim testiranjem za zdravstvene namene,

sporazumele o naslednjem:

## I. poglavje – Predmet in področje uporabe

### 1. člen – Predmet in namen

Pogodbenice tega protokola varujejo dostojanstvo in identiteto vseh človeških bitij ter vsakomur brez razlikovanja jamčijo spoštovanje njegove duševne in telesne nedotakljivosti ter drugih pravic in temeljnih svoboščin v zvezi s testiranjem, za katera skladno z 2. členom velja ta protokol.

### 2. člen – Področje uporabe

1 Protokol velja za teste, ki se izvajajo za zdravstvene namene, vključujejo analizo bioloških vzorcev človeškega izvora in so namenjeni posebej ugotavljanju genetskih značilnosti posameznika, ki so dedne ali pridobljene v zgodnjem obdobju razvoja zarodka (v nadaljnjem besedilu »genetski testi«).

2 Protokol ne velja za:

a genetske teste, ki se izvajajo pri človeškem zarodku ali plodu;

b genetske teste, ki se izvajajo za raziskovalne namene.

3 V prvem odstavku:

a »analiza« pomeni:

i kromosomsko analizo,

ii analizo DNK ali RNK,

iii analizo katerega koli drugega elementa, ki omogoča pridobitev informacij, enakovrednih tistim, pridobljenim s pomočjo metod iz točk i in ii pododstavka a;

b »biološki vzorci« pomenijo:

i biološke vzorce, odvzete za namen zadevnih testov,

ii biološke vzorce, odvzete predhodno za drug namen.

## II. poglavje – Splošne določbe

### 3. člen – Prvenstvo človeškega bitja

Koristi in skrb za človeško bitje, pri katerem se izvajajo genetski testi iz tega protokola, morajo prevladati nad izključno koristjo družbe ali znanosti.

### 4. člen – Prepoved diskriminacije in stigmatizacije

1 Vsaka oblika diskriminacije osebe kot posameznika ali člana skupine na podlagi njene genetske zasnove je prepovedana.

2 Appropriate measures shall be taken in order to prevent stigmatisation of persons or groups in relation to genetic characteristics.

### Chapter III – Genetic services

#### Article 5 – Quality of genetic services

Parties shall take the necessary measures to ensure that genetic services are of appropriate quality. In particular, they shall see to it that:

a genetic tests meet generally accepted criteria of scientific validity and clinical validity;

b a quality assurance programme is implemented in each laboratory and that laboratories are subject to regular monitoring;

c persons providing genetic services have appropriate qualifications to enable them to perform their role in accordance with professional obligations and standards.

#### Article 6 – Clinical utility

Clinical utility of a genetic test shall be an essential criterion for deciding to offer this test to a person or a group of persons.

#### Article 7 – Individualised supervision

1 A genetic test for health purposes may only be performed under individualised medical supervision.

2 Exceptions to the general rule referred to in paragraph 1 may be allowed by a Party, subject to appropriate measures being provided, taking into account the way the test will be carried out, to give effect to the other provisions of this Protocol.

However, such an exception may not be made with regard to genetic tests with important implications for the health of the persons concerned or members of their family or with important implications concerning procreation choices.

### Chapter IV – Information, genetic counselling and consent

#### Article 8 – Information and genetic counselling

1 When a genetic test is envisaged, the person concerned shall be provided with prior appropriate information in particular on the purpose and the nature of the test, as well as the implications of its results.

2 For predictive genetic tests as referred to in Article 12 of the Convention on Human Rights and Biomedicine, appropriate genetic counselling shall also be available for the person concerned.

The tests concerned are:

- tests predictive of a monogenic disease,
- tests serving to detect a genetic predisposition or genetic susceptibility to a disease,
- tests serving to identify the subject as a healthy carrier of a gene responsible for a disease.

The form and extent of this genetic counselling shall be defined according to the implications of the results of the test and their significance for the person or the members of his or her family, including possible implications concerning procreation choices.

Genetic counselling shall be given in a non-directive manner.

#### Article 9 – Consent

1 A genetic test may only be carried out after the person concerned has given free and informed consent to it.

Consent to tests referred to in Article 8, paragraph 2, shall be documented.

2 The person concerned may freely withdraw consent at any time.

2 Sprejmejo se ustrezni ukrepi za preprečevanje stigmatizacije oseb ali skupin v zvezi z genetskimi značilnostmi.

### III. poglavje – Genetske storitve

#### 5. člen – Kakovost genetskih storitev

Pogodbenice sprejmejo potrebne ukrepe za zagotavljanje genetskih storitev ustrezne kakovosti. Še zlasti poskrbijo:

a da genetski testi izpolnjujejo splošno sprejeta merila znanstvene in klinične veljavnosti;

b da se v vsakem laboratoriju uvede program zagotavljanja kakovosti, v laboratorijih pa se opravlja redni nadzor;

c da so osebe, ki izvajajo genetske storitve, ustrezno usposobljene, da lahko opravljajo svoje naloge skladno s strokovnimi zahtevami in standardi.

#### 6. člen – Kakovost genetskih storitev

Klinična korist genetskih testov mora biti temeljno merilo pri odločanju, ali naj se neki osebi ali skupini oseb ponudi to testiranje.

#### 7. člen – Individualizirani nadzor

1 Genetski test za zdravstvene namene se sme opraviti le pod individualiziranim zdravniškim nadzorom.

2 Pogodbenica lahko dovoli odstopanje od splošnega pravila iz prvega odstavka, če so ob upoštevanju načina izvedbe testa zagotovljeni ustrezni ukrepi, ki omogočajo izvajanje drugih določb tega protokola.

Tako odstopanje pa ni dopustno pri genetskih testih s pomembnim vplivom na zdravje zadevnih oseb ali njihovih družinskih članov oziroma s pomembnim vplivom na odločanje glede izbire pri oploditvi.

### IV. poglavje – Informacije, genetsko svetovanje in privolitev

#### 8. člen – Informacije in genetsko svetovanje

1 Kadar se predvideva genetsko testiranje, se zadevni osebi predhodno dajo ustrezne informacije, zlasti še o namenu in naravi testiranja ter posledicah dobljenih izsledkov.

2 Pri napovednih genetskih testih iz 12. člena Konvencije o človekovih pravicah v zvezi z biomedicino mora biti zadevni osebi na razpolago tudi ustrezno genetsko svetovanje.

Ti testi so:

- testi za napovedovanje monogenih bolezni,
- testi za odkrivanje genetske nagnjenosti ali dovzetnosti za bolezni,
- testi za prepoznavo zdravega subjekta, ki je nosilec gena, odgovornega za pojav neke bolezni.

Oblika in obseg tega genetskega svetovanja se določata glede na posledice izsledkov testa in njihov pomen za zadevno osebo ali njene družinske člane, vključno z mogočim vplivom na odločanje glede izbire pri oploditvi.

Genetsko svetovanje se izvaja na način, ki ni usmerjajoč.

#### 9. člen – Privolitev

1 Genetsko testiranje se sme izvesti le, če je zadevna oseba vanj prostovoljno privolila na podlagi prejetih pojasnil.

Privolitev v testiranje iz drugega odstavka 8. člena se dokumentira.

2 Zadevna oseba lahko svojo privolitev kadar koli svobodno prekliče.

**Chapter V – Persons not able to consent****Article 10 – Protection of persons not able to consent**

Subject to Article 13 of this Protocol, a genetic test on a person who does not have the capacity to consent may only be carried out for his or her direct benefit.

Where, according to law, a minor does not have the capacity to consent, a genetic test on this person shall be deferred until attainment of such capacity unless that delay would be detrimental to his or her health or well-being.

**Article 11 – Information prior to authorisation, genetic counselling and support**

1 When a genetic test is envisaged in respect of a person not able to consent, the person, authority or body whose authorisation is required shall be provided with prior appropriate information in particular with regard to the purpose and the nature of the test, as well as the implications of its results.

Appropriate prior information shall also be provided to the person not able to consent in respect of whom the test is envisaged, to the extent of his or her capacity to understand.

A qualified person shall be available to answer possible questions by the person, authority or body whose authorisation is required, and, if appropriate, the person in respect of whom the test is envisaged.

2 The provisions of Article 8, paragraph 2, shall apply in the case of persons not able to consent to the extent of their capacity to understand.

Where relevant, appropriate support shall be available for the person whose authorisation is required.

**Article 12 – Authorisation**

1 Where, according to law, a minor does not have the capacity to consent to a genetic test, that test may only be carried out with the authorisation of his or her representative or an authority or a person or body provided for by law.

The opinion of the minor shall be taken into consideration as an increasingly determining factor in proportion to his or her age and degree of maturity.

2 Where, according to law, an adult does not have the capacity to consent to a genetic test because of a mental disability, a disease or for similar reasons, that test may only be carried out with the authorisation of his or her representative or an authority or a person or body provided for by law.

Wishes relating to a genetic test expressed previously by an adult at a time where he or she had capacity to consent shall be taken into account.

The individual concerned shall, to the extent of his or her capacity to understand, take part in the authorisation procedure.

3 Authorisation to tests referred to in Article 8, paragraph 2, shall be documented.

4 The authorisation referred to in paragraphs 1 and 2 above may be withdrawn at any time in the best interests of the person concerned.

**Chapter VI – Tests for the benefit of family members****Article 13 – Tests on persons not able to consent**

Exceptionally, and by derogation from the provisions of Article 6, paragraph 1, of the Convention on Human Rights and Biomedicine and of Article 10 of this Protocol, the law may allow a genetic test to be carried out, for the benefit of family members, on a person who does not have the capacity to consent, if the following conditions are met:

a the purpose of the test is to allow the family member(s) concerned to obtain a preventive, diagnostic or therapeutic benefit that has been independently evaluated as important for their health, or to allow them to make an informed choice with respect to procreation;

**V. poglavje – Osebe, ki niso sposobne dati privolitve****10. člen – Varstvo oseb, ki niso sposobne dati privolitve**

Ob upoštevanju 13. člena tega protokola se sme opraviti genetski test pri osebi, ki ni sposobna dati privolitve, samo kadar je to v njeno neposredno korist.

Kadar v skladu z zakonom mladoletna oseba ni sposobna dati privolitve, se genetski test pri njej odloži, dokler ne postane opravilno sposobna, razen če bi tak odlog škodil njenemu zdravju ali dobrobiti.

**11. člen – Informacije pred pridobitvijo dovoljenja, genetsko svetovanje in podpora**

1 Kadar se predvideva genetsko svetovanje pri osebi, ki ni sposobna dati privolitve, se osebi, zavodu ali organu, katerega dovoljenje je potrebno, predhodno dajo ustrezne informacije, zlasti še o namenu in naravi testiranja ter posledicah dobljenih izsledkov.

Osebi, pri kateri je predvideno testiranje in ni sposobna dati privolitve, se da ustrezna predhodna informacija v obsegu, ki ustreza njeni zmožnosti razumevanja.

Na razpolago mora biti usposobljena oseba, da odgovarja na morebitna vprašanja osebe, zavoda ali organa, katerega dovoljenje je potrebno, in če je primerno, tudi osebe, pri kateri je predvideno testiranje.

2 Za osebe, ki niso sposobne dati privolitve, določbe drugega odstavka 8. člena veljajo v obsegu, ki ustreza njihovi zmožnosti razumevanja.

Kadar je to pomembno, mora biti na razpolago ustrezna podpora osebi, katere dovoljenje je potrebno.

**12. člen – Dovoljenje**

1 Kadar v skladu z zakonom mladoletna oseba ni sposobna privoliti v genetsko testiranje, se to lahko opravi le z dovoljenjem njenega zastopnika ali zavoda ali osebe ali organa, kakor je določeno z zakonom.

Pri tem je treba upoštevati mnenje mladoletne osebe, ki je toliko bolj zavezujoče, kolikor starejša in zrelejša je ta oseba.

2 Kadar v skladu z zakonom odrasla oseba ni sposobna privoliti v genetsko testiranje zaradi zmanjšane duševne zmožnosti, bolezni ali podobnih razlogov, se to lahko opravi le z dovoljenjem njenega zastopnika ali zavoda ali osebe ali organa, kakor je določeno z zakonom.

Želje glede genetskega testiranja, ki jih je odrasla oseba izrazila, ko je še bila sposobna dati privolitev, se upoštevajo.

Zadevni posameznik glede na svoje zmožnosti razumevanja sodeluje v postopku pridobitve dovoljenja.

3 Dovoljenje k testom iz drugega odstavka 8. člena se dokumentira.

4 Dovoljenje iz prvega in drugega odstavka tega člena je mogoče kadar koli preklicati, če je to v korist zadevne osebe.

**VI. poglavje – Testi v korist družinskih članov****13. člen – Testi pri osebah, ki niso sposobne dati privolitve**

Izjemoma in z odstopanjem od določb prvega odstavka 6. člena Konvencije o človekovih pravicah v zvezi z biomedicino in 10. člena tega protokola je po zakonu lahko dovoljeno opraviti genetski test pri osebi, ki ni sposobna dati privolitve, kadar je to v korist družinskih članov, če so izpolnjeni naslednji pogoji:

a namen testa je omogočiti zadevnemu družinskemu članu ali članom preventivno, diagnostično ali terapevtsko korist, ki je po neodvisni oceni pomembna za njihovo zdravje, ali jim omogočiti, da sprejmejo odločitev glede izbire pri oploditvi na podlagi prejetih pojasnil;

b the benefit envisaged cannot be obtained without carrying out this test;

c the risk and burden of the intervention are minimal for the person who is undergoing the test;

d the expected benefit has been independently evaluated as substantially outweighing the risk for private life that may arise from the collection, processing or communication of the results of the test;

e the authorisation of the representative of the person not able to consent, or an authority or a person or body provided for by law has been given;

f the person not able to consent shall, in proportion to his or her capacity to understand and degree of maturity, take part in the authorisation procedure. The test shall not be carried out if this person objects to it.

#### **Article 14 – Tests on biological materials when it is not possible to contact the person concerned**

When it is not possible, with reasonable efforts, to contact a person for a genetic test for the benefit of his or her family member(s) on his or her biological material previously removed for another purpose, the law may allow the test to be carried out in accordance with the principle of proportionality, where the expected benefit cannot be otherwise obtained and where the test cannot be deferred.

Provisions shall be made, in accordance with Article 22 of the Convention on Human Rights and Biomedicine, for the case where the person concerned has expressly opposed such test.

#### **Article 15 – Tests on deceased persons**

A genetic test for the benefit of other family members may be carried out on biological samples:

- removed from the body of a deceased person, or
- removed, when he or she was alive, from a person now deceased,

only if the consent or authorisation required by law has been obtained.

### **Chapter VII – Private life and right to information**

#### **Article 16 – Respect for private life and right to information**

1 Everyone has the right to respect for his or her private life, in particular to protection of his or her personal data derived from a genetic test.

2 Everyone undergoing a genetic test is entitled to know any information collected about his or her health derived from this test.

The conclusions drawn from the test shall be accessible to the person concerned in a comprehensible form.

3 The wish of a person not to be informed shall be respected.

4 In exceptional cases, restrictions may be placed by law on the exercise of the rights contained in paragraphs 2 and 3 above in the interests of the person concerned.

#### **Article 17 – Biological samples**

Biological samples referred to in Article 2 shall only be used and stored in such conditions as to ensure their security and the confidentiality of the information which can be obtained therefrom.

#### **Article 18 – Information relevant to family members**

Where the results of a genetic test undertaken on a person can be relevant to the health of other family members, the person tested shall be informed.

b predvidena korist se ne da doseči brez tega testa;

c tveganje in breme posega sta za osebo, pri kateri se opravi ta test, minimalni;

d po neodvisni oceni pričakovane koristi bistveno prese-gajo tveganje za zasebno življenje, do katerega bi lahko prišlo zaradi zbiranja, obdelave ali sporočanja izsledkov testiranja;

e pri osebi, ki ni sposobna dati privolitve, je dovoljenje dal njen zakoniti zastopnik ali zavod ali oseba ali organ, kakor je določeno z zakonom;

f oseba, ki ni sposobna dati privolitve, skladno s svojimi zmožnostmi razumevanja sodeluje v postopku pridobitve dovoljenja. Test se ne opravi, če ta oseba temu nasprotuje.

#### **14. člen – Testi na bioloških materialih, kadar z zadevno osebo ni mogoče vzpostaviti stika**

Kadar kljub smiselnim prizadevanjem ni mogoče vzpostaviti stika z osebo za izvedbo genetskega testa v njeno korist ali korist njenih družinskih članov na njenem biološkem materialu, odvzetem predhodno za kak drug namen, je zakonsko dopustno opraviti testiranje v skladu z načelom sorazmernosti, kadar pričakovane koristi ni mogoče doseči kako drugače in se test ne da odložiti.

Skladno z 22. členom Konvencije o človekovih pravicah v zvezi z biomedicino se predvidi tudi možnost, kadar zadevna oseba izrecno nasprotuje takemu testiranju.

#### **15. člen – Testi pri umrlih osebah**

Genetski test v korist drugih družinskih članov se lahko opravi na bioloških vzorcih:

- odvzetih s/i z telesa umrle osebe ali
- odvzetih umrli osebi še za časa njenega življenja,

samo če je bila pridobljena privolitev ali z zakonom predpisano dovoljenje.

### **VII. poglavje – Zasebno življenje in pravica do informacij**

#### **16. člen – Spoštovanje zasebnega življenja in pravica do informacij**

1 Vsakdo ima pravico do spoštovanja svojega zasebnega življenja, zlasti še do varovanja svojih osebnih podatkov v zvezi z genetskimi testi.

2 Vsakdo, pri katerem se opravi genetski test, ima pravico do katerih koli informacij o svojem zdravju, ki so bile zbrane s pomočjo tega testa.

Ugotovitve na podlagi tega testa morajo biti zadevni osebi dostopne v razumljivi obliki.

3 Željo osebe, ki ne želi biti obveščena, je treba spoštovati.

4 Izjemoma se lahko v korist zadevne osebe zakonsko omeji uveljavljanje pravic iz drugega in tretjega odstavka tega člena.

#### **17. člen – Biološki vzorci**

Biološki vzorci iz 2. člena se smejo uporabljati in shranjevati le pod pogoji, ki zagotavljajo njihovo varnost in zaupnost podatkov, ki jih je mogoče pridobiti iz teh vzorcev.

#### **18. člen – Informacije, pomembne za družinske člane**

Kadar so lahko izsledki genetskega testa, opravljenega pri neki osebi, pomembni za zdravje drugih družinskih članov, je treba testirano osebo o tem obvestiti.



**Chapter VIII – Genetic screening programmes for health purposes****Article 19 – Genetic screening programmes for health purposes**

A health screening programme involving the use of genetic tests may only be implemented if it has been approved by the competent body. This approval may only be given after independent evaluation of its ethical acceptability and fulfilment of the following specific conditions:

- a the programme is recognised for its health relevance for the whole population or section of population concerned;
- b the scientific validity and effectiveness of the programme have been established;
- c appropriate preventive or treatment measures in respect of the disease or disorder which is the subject of the screening, are available to the persons concerned;
- d appropriate measures are provided to ensure equitable access to the programme;
- e the programme provides measures to adequately inform the population or section of population concerned of the existence, purposes and means of accessing the screening programme as well as the voluntary nature of participation in it.

**Chapter IX – Public information****Article 20 – Public information**

Parties shall take appropriate measures to facilitate access for the public to objective general information on genetic tests, including their nature and the potential implications of their results.

**Chapter X – Relation between this Protocol and other provisions and re-examination of the Protocol****Article 21 – Relation between this Protocol and the Convention**

As between the Parties, the provisions of Articles 1 to 20 of this Protocol shall be regarded as additional articles to the Convention on Human Rights and Biomedicine, and all the provisions of the Convention shall apply accordingly.

**Article 22 – Wider protection**

None of the provisions of this Protocol shall be interpreted as limiting or otherwise affecting the possibility for a Party to grant persons concerned by genetic testing for health purposes a wider measure of protection than is stipulated in this Protocol.

**Article 23 – Re-examination of the Protocol**

In order to monitor scientific developments, the present Protocol shall be examined within the Committee referred to in Article 32 of the Convention on Human Rights and Biomedicine no later than five years from the entry into force of this Protocol and thereafter at such intervals as the Committee may determine.

**Chapter XI – Final clauses****Article 24 – Signature and ratification**

This Protocol shall be open for signature by Signatories to the Convention on Human Rights and Biomedicine. It is subject to ratification, acceptance or approval. A Signatory may not ratify, accept or approve this Protocol unless it has previously or simultaneously ratified, accepted or approved the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

**Article 25 – Entry into force**

1 This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five States, including at least four member States of the Council of Europe, have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 24.

**VIII. poglavje – Programi genetskega presejanja za zdravstvene namene****19. člen – Programi genetskega presejanja za zdravstvene namene**

Zdravstveni program presejanja, ki vključuje uporabo genetskih testov, se sme izvajati, samo če ga je odobril pristojni organ. Ta odobritev pa lahko temelji samo na neodvisni oceni etične sprejemljivosti in izpolnjevanja teh posebnih pogojev:

- a program je priznan kot pomemben za zdravje celotnega prebivalstva ali dela zadevnega prebivalstva;
- b ugotovljeni sta znanstvena veljavnost in učinkovitost programa;
- c zadevni osebi so na razpolago ustrezni preventivni ali terapevtski ukrepi za bolezen ali motnjo, ki je predmet presejanja;
- d na razpolago so ustrezni ukrepi za zagotavljanje enopravnega dostopa do programa;
- e program vključuje ukrepe za ustrezno obveščanje prebivalstva ali dela zadevnega prebivalstva o obstoju in namenu programa presejanja ter načinu dostopa do njega in o prostovoljni naravi sodelovanja v njem.

**IX. poglavje – Obveščanje javnosti****20. člen – Obveščanje javnosti**

Pogodbenice sprejmejo ustrezne ukrepe, da javnosti omogočijo dostop do objektivnih splošnih informacij o genetskih testih, vključno z njihovo naravo in mogočimi posledicami njihovih izsledkov.

**X. poglavje – Razmerje med tem protokolom in drugimi določbami ter ponovni pregled protokola****21. člen – Razmerje med tem protokolom in konvencijo**

Med pogodbenicami velja, da se vse določbe od 1. do 20. člena tega protokola obravnavajo kot dodatni členi Konvencije o človekovih pravicah v zvezi z biomedicino, vse določbe konvencije pa se uporabljajo skladno s tem.

**22. člen – Večje varstvo**

Nobena določba tega protokola se ne razlaga, kot da omejuje ali drugače vpliva na možnost pogodbenice, da osebam, na katere se nanaša genetsko testiranje za zdravstvene namene, zagotovi večje varstvo, kot je določeno v tem protokolu.

**23. člen – Ponovni pregled protokola**

Da bi spremljali razvoj znanosti, odbor iz 32. člena Konvencije o človekovih pravicah v zvezi z biomedicino pregleda ta protokol najpozneje po petih letih od začetka njegove veljavnosti in nato v presledkih, ki jih lahko določi odbor.

**XI. poglavje – Končne določbe****24. člen – Podpis in ratifikacija**

Protokol je na voljo za podpis podpisnicam Konvencije o človekovih pravicah v zvezi z biomedicino. Treba ga je ratificirati, sprejeti ali odobriti. Podpisnica ga ne sme ratificirati, sprejeti ali odobriti, razen če ni prej ali sočasno ratificirala, sprejela ali odobrila konvencije. Listine o ratifikaciji, sprejetju ali odobritvi se deponirajo pri generalnem sekretarju Sveta Evrope.

**25. člen – Začetek veljavnosti**

1 Protokol začne veljati prvi dan meseca po poteku treh mesecev po dnevu, ko je pet držav, od katerih so najmanj štiri države članice Sveta Evrope, v skladu z določbami 24. člena privolile, da jih protokol zavezuje.

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

#### Article 26 – Accession

1 After the entry into force of this Protocol, any State which has acceded to the Convention on Human Rights and Biomedicine may also accede to this Protocol.

2 Accession shall be effected by the deposit with the Secretary General of the Council of Europe of an instrument of accession which shall take effect on the first day of the month following the expiration of a period of three months after the date of its deposit.

#### Article 27 – Denunciation

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

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

#### Article 28 – Notification

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the European Community, any Signatory, any Party and any other State which has been invited to accede to the Convention on Human Rights and Biomedicine of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Protocol in accordance with Articles 25 and 26;
- d any other act, notification or communication relating to this Protocol.

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

Done at Strasbourg, this 27th day of November 2008, 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, to the non-member States which have participated in the elaboration of this Protocol, to any State invited to accede to the Convention on Human Rights and Biomedicine and to the European Community.

#### 3. člen

Za izvajanje dodatnega protokola skrbi Ministrstvo za zdravje.

#### 4. člen

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

Št. 500-01/09-8/11  
Ljubljana, dne 15. julija 2009  
EPA 313-V

2 Za vsako podpisnico, ki pozneje privoli, da jo protokol zavezuje, začne protokol veljati prvi dan meseca, ki sledi izteku treh mesecev od dneva deponiranja listine o ratifikaciji, sprejetju ali odobritvi.

#### 26. člen – Pristop

1 Po začetku veljavnosti tega protokola lahko vsaka država, ki je pristopila h Konvenciji o človekovih pravicah v zvezi z biomedicino, pristopi tudi k temu protokolu.

2 Za pristop se pri generalnem sekretarju Sveta Evrope deponira listina o pristopu, veljati pa začne prvi dan meseca po poteku treh mesecev po dnevu deponiranja.

#### 27. člen – Odpoved

1 Vsaka pogodbenica lahko ta protokol kadar koli odpove z uradnim obvestilom, naslovljeno na generalnega sekretarja Sveta Evrope.

2 Odpoved začne veljati prvi dan meseca po poteku treh mesecev po dnevu, ko generalni sekretar prejme uradno obvestilo.

#### 28. člen – Uradno obvestilo

Generalni sekretar Sveta Evrope uradno obvesti države članice Sveta Evrope, Evropsko skupnost, vsako podpisnico, vsako pogodbenico in vsako drugo državo, ki je bila povabljen, da pristopi h Konvenciji o človekovih pravicah v zvezi z biomedicino, o:

- a vsakem podpisu;
- b deponiranju vsake listine o ratifikaciji, sprejetju, odobritvi ali pristopu;
- c vsakem datumu začetka veljavnosti tega protokola v skladu s 25. in 26. členom;
- d vsakem drugem dejanju, uradnem obvestilu ali sporočilu v zvezi s tem protokolom.

V potrditev tega so podpisani, ki so bili za to pravilno pooblaščen, podpisali ta protokol.

Sestavljeno v Strasbourgu 27. novembra 2008 v angleškem in francoskem jeziku, pri čemer sta besedili enako verodostojni, v enem izvodu, ki se hrani v arhivu Sveta Evrope. Generalni sekretar Sveta Evrope pošlje overjene kopije državam članicam Sveta Evrope, državam nečlanicam, ki so sodelovale pri pripravi tega protokola, vsaki državi, ki je povabljen, da pristopi h Konvenciji o človekovih pravicah v zvezi z biomedicino, ter Evropski skupnosti.

Državni zbor  
Republike Slovenije  
**dr. Pavel Gantar** i.r.  
Predsednik

**65. Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije ter Svetom ministrov Bosne in Hercegovine o gospodarskem sodelovanju (BBHSGS)**

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

**U K A Z****o razglasitvi Zakona o ratifikaciji Sporazuma med Vlado Republike Slovenije ter Svetom ministrov Bosne in Hercegovine o gospodarskem sodelovanju (BBHSGS)**

Razglašam Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije ter Svetom ministrov Bosne in Hercegovine o gospodarskem sodelovanju (BBHSGS), ki ga je sprejel Državni zbor Republike Slovenije na seji 15. julija 2009.

Št. 003-02-7/2009-18  
Ljubljana, dne 23. julija 2009

**dr. Danilo Türk** l.r.  
Predsednik  
Republike Slovenije

**Z A K O N****O RATIFIKACIJI SPORAZUMA MED VLADO REPUBLIKE SLOVENIJE TER SVETOM MINISTROV BOSNE IN HERCEGOVINE O GOSPODARSKEM SODELOVANJU (BBHSGS)**

## 1. člen

Ratificira se Sporazum med Vlado Republike Slovenije ter Svetom ministrov Bosne in Hercegovine o gospodarskem sodelovanju, podpisan v Sarajevu 19. januarja 2009.

## 2. člen

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

**S P O R A Z U M  
M E D  
V L A D O R E P U B L I K E S L O V E N I J E  
T E R  
S V E T O M M I N I S T R O V B O S N E I N H E R C E G O V I N E  
O G O S P O D A R S K E M S O D E L O V A N J U**

Vlada Republike Slovenije ter Svet ministrov Bosne in Hercegovine, v nadaljevanju: pogodbenika, sta se

v duhu prijateljskih odnosov med državama,  
v želji po pospeševanju medsebojnega gospodarskega sodelovanja,  
ob priznavanju pomembnosti nadaljevanja in krepitev obstoječih tradicionalnih gospodarskih odnosov,  
zaradi razvijanja in krepitev vzajemno koristnega gospodarskega, industrijskega in tehnološkega sodelovanja,  
v prepričanju, da se s krepitvijo tega sodelovanja ustvarjajo ugodni pogoji in ustrezni temelji za njihov nadaljnji razvoj,

ob upoštevanju ustrezne zakonodaje Republike Slovenije ter Bosne in Hercegovine ob popolni skladnosti z mednarodnimi zavezami  
zaradi doseganja teh ciljev dogovorila:

**A G R E E M E N T  
B E T W E E N  
T H E G O V E R N M E N T  
O F T H E R E P U B L I C O F S L O V E N I A  
A N D T H E C O U N C I L  
O F M I N I S T E R S O F B O S N I A A N D H E R Z E G O V I N A  
O N E C O N O M I C C O O P E R A T I O N**

The Government of the Republic of Slovenia and the Council of Ministers of Bosnia and Herzegovina, hereinafter referred to as „Contracting Parties”,

In the spirit of friendly relations between both countries,  
Guided by the wish to promote mutual economic cooperation,

Recognising the importance and significance of continuing and reinforcing the existing traditional economic relations,  
Aiming at developing and intensifying mutually beneficial economic, industrial and technological cooperation,  
Believing that intensification of this cooperation creates favourable conditions and appropriate foundations for their further development,

Respecting the relevant legislation of the Republic of Slovenia and Bosnia and Herzegovina in full accordance with international commitments,

Have, for the purpose of fulfilling these objectives, agreed as follows:

\* Besedilo sporazuma v bosanskem, hrvaškem in srbskem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

**1. člen****Predmet in obseg sporazuma**

Ta sporazum določa splošne pogoje in oblike širitve gospodarskega sodelovanja med Republiko Slovenijo ter Bosno in Hercegovino. Pogodbenika v skladu s svojo zakonodajo spodbujata razvoj in širitev vzajemno koristnega gospodarskega sodelovanja na vseh področjih, ki so pomembna za gospodarski in družbeni razvoj.

**2. člen****Pristojna organa**

Pristojna organa – koordinatorja pogodbenikov – za izvajanje tega sporazuma sta:

za Republiko Slovenijo:  
ministrstvo Republike Slovenije, pristojno za zunanjetrgovinske odnose,

za Bosno in Hercegovino:  
Ministrstvo za zunanjo trgovino in gospodarske odnose Bosne in Hercegovine.

**3. člen****Področja sodelovanja**

Na podlagi proučitve možnosti nadaljnega razvoja gospodarskih odnosov sta se pogodbenika dogovorila o razvijanju sodelovanja na naslednjih področjih:

- a) kmetijstvo, gozdno gospodarstvo in upravljanje voda,
- b) promet in telekomunikacije,
- c) zdravje,
- d) okolje,
- e) šolstvo in znanost,
- f) turizem,
- g) strojna industrija,
- h) kemična industrija,
- i) farmacevtska industrija,
- j) elektroinženiring,
- k) rudarstvo,
- l) gradnja in obnova elektrarn, energetskih omrežij, plinovodov in naftovodov,
- m) informacijska in računalniška tehnologija,
- n) izmenjava znanja, izkušenj in širitev sodelovanja med malimi in srednje velikimi podjetji.

**4. člen****Oblike razvijanja sodelovanja**

Pogodbenika krepi in širita sodelovanje:

- a) s podpiranjem povezav in krepitvijo sodelovanja na ravni organov javne uprave, strokovnih zbornic, poslovnih združenj, regionalnih in lokalnih enot, s pospeševanjem izmenjave informacij na gospodarskih področjih obojestranskega pomena;
- b) z izmenjavo informacij o prednostnih nalogah razvoja in spodbujanjem izvajalcev razvojnih projektov k sodelovanju;
- c) z izmenjavo informacij na gospodarskem področju, podpiranjem sodelovanja na sejmih in razstavah, organizacijo strokovnih dogodkov, seminarjev, simpozijev in konferenc;
- d) s spodbujanjem vključevanja malih in srednje velikih zasebnih podjetij v dvostranske gospodarske odnose;
- e) s spodbujanjem sodelovanja pri zagotavljanju svetovanja, trženja in strokovnih storitev na področjih, ki so v obojestranskem interesu;
- f) s spodbujanjem finančnih institucij in bančnega sektorja k vzpostavitvi tesnejših stikov s krepitvijo njihovega sodelovanja;

**Article 1****Object and scope of the Agreement**

This Agreement lays down the general conditions and forms of extension of economic cooperation between the Republic of Slovenia and Bosnia and Herzegovina. The Contracting Parties will be promoting, under its legislation, development and extension of mutually beneficial economic cooperation in all areas of importance for economic and social development.

**Article 2****Competent authorities**

The competent authorities – coordinators of the Contracting Parties – for the purposes of implementation of the Agreement shall be:

For the Republic of Slovenia:  
Ministry of the Republic of Slovenia responsible for foreign trade relations.

For Bosnia and Herzegovina:  
Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina.

**Article 3****Areas of cooperation**

Based on an analysis of the prospects of further development of economic relations, the Contracting Parties have agreed to develop cooperation in the following areas:

- a) Agriculture, forest and water management
- b) Transport and telecommunications
- c) Health
- d) Environment
- e) Education and science
- f) Tourism
- g) Mechanical industry
- h) Chemical industry
- i) Pharmaceutical industry
- j) Electrical engineering
- k) Mining industry
- l) Construction and rehabilitation of power plants, energy, gas and oil pipeline networks
- m) Information and computer technologies
- n) Interchange of knowledge and experiences, and extension of cooperation between small and medium enterprises.

**Article 4****Forms of cooperation development**

The Contracting Parties shall extend and develop mutual cooperation through:

- a) support of links and strengthening of cooperation on the level of public service bodies, professional chambers, business associations, regional and local entities, through promotion of information interchange in economic areas of bilateral importance;
- b) interchange of information on development priorities and promotion of participation of operators of developmental projects;
- c) interchange of information in economic area, support of participation in fairs and exhibitions, organisation of professional events, seminars, symposia and conferences;
- d) promotion of involvement in bilateral economic relations of small and medium-size enterprises in the private sector;
- e) promotion of cooperation in the provision of counselling, marketing and professional services in areas of bilateral interests;
- f) promotion of financial institutions and the banking sector in establishing closer contacts, through strengthening their cooperation;



g) s spodbujanjem vlaganj, ustanavljanjem skupnih podjetij ter ustanavljanjem predstavništev in podružnic podjetij ter

h) s spodbujanjem razvoja medregionalnega sodelovanja in sodelovanja na mednarodni ravni pri zadevah, ki so v obsejstranskem interesu.

#### 5. člen

##### Skupna komisija

1. Zaradi usklajevanja dejavnosti ter razvijanja gospodarskega sodelovanja in izpolnjevanja ciljev iz tega sporazuma pogodbenika ustanovi Skupno komisijo za gospodarsko sodelovanje (v nadaljevanju: komisija). Komisija se sestaja na zahtevo pogodbenikov izmenično v Republiki Sloveniji ter v Bosni in Hercegovini. Število članov vsakega pogodbenika v komisiji določita pristojna organa – koordinatorja – na podlagi dogovora.

2. Komisija obravnava zlasti zadeve v zvezi:

- a) z oceno doseženega razvoja medsebojnih gospodarskih odnosov v predhodnem obdobju;
- b) z iskanjem novih priložnosti za nadaljnji razvoj gospodarskega sodelovanja;
- c) z izdelavo predlogov za izboljšanje pogojev medsebojnega gospodarskega sodelovanja;
- d) s predložitvijo predlogov za uporabo tega sporazuma in
- e) z iskanjem soglasja, če se mnenje enega pogodbenika o uporabi ali razlagi določb tega sporazuma razlikuje od mnenja drugega pogodbenika.

#### 6. člen

##### Narava pravnih zavez

Ta sporazum ne vpliva na pravice in obveznosti, ki jih imata pogodbenika tega sporazuma na podlagi drugih mednarodnih sporazumov, katerih pogodbenici sta Republika Slovenija ter Bosna in Hercegovina, ali na podlagi članstva v mednarodnih organizacijah. Ta sporazum ne vpliva na zaveze, ki izhajajo iz članstva Republike Slovenije v Evropski uniji. Določbe tega sporazuma se ne smejo razlagati tako, da kršijo ali kakor koli vplivajo na obveznosti iz Pogodbe o ustanovitvi Evropske skupnosti ali iz sporazumov med Bosno in Hercegovino ter Evropsko skupnostjo.

#### 7. člen

##### Reševanje sporov

Morebitni spori glede razlage ali izvajanja določb tega sporazuma se rešujejo s pogajanjem med pogodbenikoma.

#### 8. člen

##### Končne določbe

1. Ta sporazum začne veljati trideset dni po datumu prejema zadnjega pisnega obvestila, da so izpolnjene vse notranjepravne zahteve za začetek veljavnosti sporazuma, in velja štiri leta. Po poteku tega obdobja se veljavnost sporazuma samodejno podaljšuje vsakokrat za eno leto, razen če ga kateri koli od pogodbenikov najmanj šest mesecev pred potekom pisno ne odpove po diplomatski poti.

g) promotion of investment activities, establishment of joint ventures and by establishing representations and branches of enterprises; and

h) promotion of the development of interregional cooperation and cooperation on international level in matters of bilateral interest.

#### Article 5

##### Joint Commission

1. In order to coordinate activities and the development of mutual economic cooperation, and to fulfill the aims set in this Agreement, the Contracting Parties shall herewith establish a Joint Commission on economic cooperation (hereinafter: Commission). The Commission shall meet at the request of the Contracting Parties alternately in the Republic of Slovenia and in Bosnia and Herzegovina. The number of the Commission members on behalf of the Contracting Parties shall be determined by competent authorities – coordinators by mutual agreement.

2. The Commission shall particularly review issues connected with:

- a) evaluation of the level of development of mutual economic relations achieved in the preceding period;
- b) seeking new opportunities for further development of economic cooperation;
- c) elaborate suggestions for improving conditions of mutual economic cooperation;
- d) submission of suggestions for the application of this Agreement; and
- e) seeking consensus where the opinion of either Contracting Party concerning the application or interpretation of the provisions of this Agreement differs from that of the other Contracting Party.

#### Article 6

##### Legal binding quality

This Agreement does not affect the rights and commitments of the Contracting Parties to the Agreement under other international agreements whose parties are the Republic of Slovenia and Bosnia and Herzegovina, or under their membership of international organizations. This Agreement does not affect the commitments under the membership of the Republic of Slovenia to the European Union. The provisions of this Agreement may not be interpreted to violate or in any way affect commitments under the European Community Treaty or under agreements made between Bosnia and Herzegovina and the European Community.

#### Article 7

##### Resolution of disputes

Any disputes arising from the interpretation or performance under the provisions of this Agreement shall be resolved by mutual negotiations between the Contracting Parties.

#### Article 8

##### Final provisions

1. This Agreement shall enter into force thirty days after the date of receipt of the last written notification that all internal legal requirements for the entry into force of the Agreement have been fulfilled and shall remain in force for a period of four years. Upon expiry of this period, the validity of the Agreement shall be automatically extended, for one year each time, unless either Contracting Party declares the Agreement terminated in writing through diplomatic channels at least six months prior to expiry thereof.

2. Ta sporazum se lahko spremeni s pisnim soglasjem pogodbenikov. Vsaka taka sprememba začne veljati v skladu s postopkom iz prvega odstavka tega člena.

3. Z dnem začetka veljavnosti tega sporazuma preneha veljati Sporazum o gospodarskem sodelovanju med Republiko Slovenijo in Bosno in Hercegovino, podpisan v Sarajevu 7. novembra 1997.

Sestavljeno v Sarajevu dne 19. 1. 2009 v dveh izvornikih, vsak v slovenskem jeziku, uradnih jezikih Bosne in Hercegovine – bosanskem, hrvaškem in srbskem – ter v angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Ob različni razlagi prevlada angleško besedilo.

Za Vlado  
Republike Slovenije  
**Samuel Žbogar** l.r.

Za Svet ministrov  
Bosne in Hercegovine  
**Sven Alkalaj** l.r.

For the Government  
of the Republic Slovenia  
**Samuel Žbogar** (s)

For the Council of Ministers  
of Bosnia and Herzegovina  
**Sven Alkalaj** (s)

2. This agreement may be amended by mutual consent of the Contracting Parties in writing. Any such amendments shall enter into force in accordance with the procedure described in paragraph 1 of this article.

3. On the date of entry into force of this Agreement the Agreement on Economic Cooperation between the Republic of Slovenia and Bosnia and Herzegovina, signed in Sarajevo on 7 November 1997, shall cease to have effect.

Done at Sarajevo on 19 January 2009 in two original copies, each in the Slovenian language, official languages of Bosnia and Herzegovina – Bosnian, Croatian, and Serbian, and in the English language, all texts being equally authentic. In the case of divergence in interpretation, the English text shall prevail.

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. 310-08/09-4/9  
Ljubljana, dne 15. julija 2009  
EPA 443-V

Državni zbor  
Republike Slovenije  
**dr. Pavel Gantar** l.r.  
Predsednik

**Obvestila o začetku oziroma prenehanju veljavnosti mednarodnih pogodb****66. Obvestilo o začetku veljavnosti Sporazuma med Vlado Republike Slovenije in Vlado Republike Turčije o sodelovanju v zdravstvu in medicini**

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list RS, št. 113/03 – uradno prečiščeno besedilo, 20/06 – ZNOMCMO in 76/08) Ministrstvo za zunanje zadeve

s p o r o č a,

da je dne 15. julija 2009 začel veljati Sporazum med Vlado Republike Slovenije in Vlado Republike Turčije o sodelovanju v zdravstvu in medicini, podpisan v Ankari 21. novembra 2007 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 13/08 (Uradni list Republike Slovenije, št. 61/08).

Ljubljana, dne 20. julija 2009

Ministrstvo za zunanje zadeve  
Republike Slovenije

**67. Obvestilo o začetku veljavnosti Sporazuma med Vlado Republike Slovenije in Vlado Ruske federacije o pogojih razmestitve diplomatskih predstavništav**

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list RS, št. 113/03 – uradno prečiščeno besedilo, 20/06 – ZNOMCMO in 76/08) Ministrstvo za zunanje zadeve

s p o r o č a,

da je dne 25. maja 2009 začel veljati Sporazum med Vlado Republike Slovenije in Vlado Ruske federacije o pogojih razmestitve diplomatskih predstavništav, podpisan v Ljubljani 16. decembra 2003 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 9/09 (Uradni list Republike Slovenije, št. 37/09).

Ljubljana, dne 30. julija 2009

Ministrstvo za zunanje zadeve  
Republike Slovenije

**68. Obvestilo o začetku veljavnosti Konvencije o medsebojni pomoči in sodelovanju med carinskimi upravami, sestavljene na podlagi člena K.3 Pogodbe o Evropski uniji**

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list RS, št. 113/03 – uradno prečiščeno besedilo, 20/06 – ZNOMCMO in 76/08) Ministrstvo za zunanje zadeve

s p o r o č a,

da je dne 23. junija 2009 začela veljati Konvencija o medsebojni pomoči in sodelovanju med carinskimi upravami, sestavljena na podlagi člena K.3 Pogodbe o Evropski uniji, sklenjena v Bruslju 18. decembra 1997 in objavljena v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 16/04 (Uradni list Republike Slovenije, št. 59/04).

Ljubljana, dne 30. julija 2009

Ministrstvo za zunanje zadeve  
Republike Slovenije

**69. Obvestilo o začetku veljavnosti Sporazuma o sodelovanju med Ministrstvom za delo, družino in socialne zadeve Republike Slovenije in Ministrstvom za delo in socialno politiko Republike Bolgarije**

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list RS, št. 113/03 – uradno prečiščeno besedilo, 20/06 – ZNOMCMO in 76/08) Ministrstvo za zunanje zadeve

s p o r o č a,

da je dne 19. junija 2009 začel veljati Sporazum o sodelovanju med Ministrstvom za delo, družino in socialne zadeve Republike Slovenije in Ministrstvom za delo in socialno politiko Republike Bolgarije, podpisan na Brdu pri Kranju 31. januarja 2008 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 5/09 (Uradni list Republike Slovenije, št. 22/09).

Ljubljana, dne 30. junija 2009

Ministrstvo za zunanje zadeve  
Republike Slovenije

## VSEBINA

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