

44. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Islandijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka (BISIDO)

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 med Republiko Slovenijo in Islandijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka (BISIDO)

Razglašam Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Islandijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka (BISIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 11. julija 2012.

Št. 003-02-6/2012-9
Ljubljana, dne 19. julija 2012

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N

**O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN ISLANDIJO
O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ
V ZVEZI Z DAVKI OD DOHODKA (BISIDO)**

1. člen

Ratificira se Konvencija med Republiko Slovenijo in Islandijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka, podpisana v Reykjaviku 4. maja 2011.

2. člen

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

**K O N V E N C I J A
M E D
R E P U B L I K O S L O V E N I J O
I N I S L A N D I J O
O I Z O G I B A N J U D V O J N E G A O B D A V Č E V A N J A
I N P R E P R E Č E V A N J U D A V Č N I H U T A J V Z V E Z I
Z D A V K I O D D O H O D K A**

REPUBLIKA SLOVENIJA IN ISLANDIJA sta se
V ŽELJI, da bi sklenili konvencijo o izogibanju dvojnega
obdavčevanja in preprečevanju davčnih utaj v zvezi z davki
od dohodka,
SPORAZUMELI:

**C O N V E N T I O N
B E T W E E N
T H E R E P U B L I C O F S L O V E N I A
A N D I C E L A N D
F O R T H E A V O I D A N C E O F D O U B L E T A X A T I O N
A N D T H E P R E V E N T I O N O F F I S C A L E V A S I O N
W I T H R E S P E C T T O T A X E S O N I N C O M E**

THE REPUBLIC OF SLOVENIA AND ICELAND,
DESIRING to conclude a Convention for the Avoidance
of Double Taxation and the Prevention of Fiscal Evasion with
respect to Taxes on Income,
HAVE AGREED as follows:

* Besedilo konvencije v islandskem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

I. POGLAVJE PODROČJE UPORABE KONVENCIJE

1. člen

OSEBE, ZA KATERE SE UPORABLJA KONVENCIJA

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

2. člen

DAVKI, ZA KATERE SE UPORABLJA KONVENCIJA

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

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

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

a) v Sloveniji:

(i) davek od dohodkov pravnih oseb in

(ii) dohodnina

(v nadaljevanju »slovenski davek«);

b) na Islandiji:

(i) davki na dohodek, ki pripadajo državi (*tekjuskattar ríkissjóðs*) in

(ii) davki na dohodek, ki pripadajo občinam (*útsvar til sveitarfélaganna*)

(v nadaljevanju »islandski davek«).

4. Konvencija se uporablja tudi za enake ali vsebinsko podobne davke, ki se po dnevu podpisa konvencije uvedejo poleg obstoječih davkov ali namesto njih. Pristojna organa držav pogodbenic drug drugega uradno obvestita o vseh bistvenih spremembah njihovih davčnih zakonodaj.

II. POGLAVJE OPREDELITEV IZRAZOV

3. člen

SPLOŠNA OPREDELITEV IZRAZOV

1. V tej konvenciji, razen če sobesedilo ne zahteva drugače:

a) izraz »Slovenija« pomeni Republiko Slovenijo, in ko se uporablja v geografskem pomenu, ozemlje Slovenije, vključno z morskim območjem, morskim dnom in podzemljem ob teritorialnem morju, na katerem lahko Slovenija izvaja svoje suverene pravice in jurisdikcijo v skladu s svojo domačo zakonodajo in mednarodnim pravom;

b) izraz »Islandija« pomeni Islandijo, in ko se uporablja v geografskem pomenu, ozemlje Islandije, vključno s teritorialnim morjem in katerim koli območjem zunaj teritorialnega morja, na katerem Islandija v skladu z mednarodnim pravom izvaja jurisdikcijo ali suverene pravice v zvezi z morskim dnom, njegovim podzemljem in vodami nad njim ter njihovimi naravnimi viri;

c) izraza »država pogodbenica« in »druga država pogodbenica« pomenita Slovenijo ali Islandijo, kakor zahteva sobesedilo;

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

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

f) izraz »podjetje« se uporablja za kakršno koli poslovanje;

CHAPTER I SCOPE OF THE CONVENTION

Article 1

PERSONS COVERED

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

Article 2

TAXES COVERED

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

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

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

a) in Slovenia:

(i) the tax on income of legal persons (*davek od dohodkov pravnih oseb*); and

(ii) the tax on income of individuals (*dohodnina*), (hereinafter referred to as "Slovenian tax");

b) in Iceland:

(i) the income taxes to the state (*tekjuskattar ríkissjóðs*); and

(ii) the income tax to the municipalities (*útsvar til sveitarfélaganna*),

(hereinafter referred to as "Icelandic tax").

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

CHAPTER II DEFINITIONS

Article 3

GENERAL DEFINITIONS

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

a) the term "Slovenia" means the Republic of Slovenia and, when used in a geographical sense, the territory of Slovenia, including the sea area, sea bed and sub-soil adjacent to the territorial sea, over which Slovenia may exercise its sovereign rights and jurisdiction in accordance with its domestic legislation and international law;

b) the term "Iceland" means Iceland and, when used in a geographical sense, means the territory of Iceland, including its territorial sea, and any area beyond the territorial sea within which Iceland, in accordance with international law, exercises jurisdiction or sovereign rights with respect to the sea bed, its subsoil and its superjacent waters, and their natural resources;

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

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

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

f) the term "enterprise" applies to the carrying on of any business;

g) izraza »podjetje države pogodbenice« in »podjetje druge države pogodbenice« pomenita podjetje, ki ga upravlja rezident države pogodbenice, in podjetje, ki ga upravlja rezident druge države pogodbenice;

h) izraz »mednarodni promet« pomeni prevoz z ladjo ali zrakoplovom, ki ga opravlja podjetje s sedežem dejanske uprave v državi pogodbenici, razen če se z ladjo ali zrakoplovom ne opravljajo prevozi samo med kraji v drugi državi pogodbenici;

i) izraz »pristojni organ« pomeni:

(i) v Sloveniji: Ministrstvo za finance Republike Slovenije ali njegovega pooblaščenega predstavnika;

(ii) na Islandiji: ministra za finance ali njegovega pooblaščenega predstavnika;

j) izraz »državljan« pomeni:

(i) posameznika, ki ima državljanstvo države pogodbenice;

(ii) pravno osebo, partnerstvo ali združenje, katerega status izhaja iz veljavne zakonodaje v državi pogodbenici;

k) izraz »poslovanje« vključuje opravljanje poklicnih storitev in drugih samostojnih dejavnosti.

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

4. člen

REZIDENT

1. V tej konvenciji izraz »rezident države pogodbenice« pomeni osebo, ki mora po zakonodaji te države plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave ali katerega koli drugega podobnega merila, in vključuje tudi to državo in katero koli njeno politično enoto ali lokalno oblast. Ta izraz pa ne vključuje osebe, ki mora plačevati davke v tej državi samo v zvezi z dohodki iz virov v tej državi.

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

a) šteje se samo za rezidenta države, v kateri ima na voljo stalni dom; če ima stalni dom na voljo v obeh državah, se šteje samo za rezidenta države, s katero ima tesnejše osebne in ekonomske stike (središče življenjskih interesov);

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

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

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

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

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

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

i) the term "competent authority" means:

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

(ii) in Iceland, the Minister of Finance or his authorised representative;

j) the term "national" means:

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

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

k) the term "business" includes the performance of professional service and of other activities of an independent character.

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

Article 4

RESIDENT

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

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

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

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

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

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

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

5. člen

STALNA POSLOVNA ENOTA

1. V tej konvenciji izraz »stalna poslovna enota« pomeni stalno mesto poslovanja, prek katerega v celoti ali delno potekajo posli podjetja.

2. Izraz »stalna poslovna enota« vključuje zlasti:

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

3. Gradbišče, projekt gradnje, montaže ali postavitve ali dejavnost nadzora v zvezi z njimi je stalna poslovna enota samo, če tako gradbišče, projekt ali dejavnost traja na ozemlju pogodbenice več kakor dvanajst mesecev.

4. Ne glede na prejšnje določbe tega člena se šteje, da izraz »stalna poslovna enota« ne vključuje:

a) uporabe prostorov samo za skladiščenje, razstavljanje ali dostavo dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za skladiščenje, razstavljanje ali dostavo;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za predelavo, ki jo opravi drugo podjetje;

d) vzdrževanja stalnega mesta poslovanja samo za nakup dobrin ali blaga za podjetje ali zbiranje informacij za podjetje;

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

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih od a do e, če je celotna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalna ali pomožna.

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

6. Ne šteje se, da ima podjetje stalno poslovno enoto v državi pogodbenici samo zato, ker opravlja posle v tej državi prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, če te osebe delujejo v okviru svojega rednega poslovanja. Kadar so dejavnosti takega zastopnika v celoti ali skoraj v celoti namenjene temu podjetju ter med podjetjem in zastopnikom v njunih komercialnih ali finančnih odnosih obstajajo ali se vzpostavijo pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se ta ne šteje za zastopnika z neodvisnim statusom v smislu tega odstavka.

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

Article 5

PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" includes especially:

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

3. A building site, a construction, assembly or installation project or a supervisory activity connected therewith, constitutes a permanent establishment only if such site, project or activity lasts in the territory of a Contracting State for a period of more than twelve months.

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

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

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

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

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

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

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

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

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.

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

III. POGLAVJE OBDAVČEVANJE DOHODKA

6. člen

DOHODEK IZ NEPREMIČNIN

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

2. Izraz »nepremičnine« pomeni enako kakor po pravu države pogodbenice, v kateri so te nepremičnine. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere se uporabljajo določbe splošnega prava v zvezi z zemljiško lastnino, užitek na nepremičninah in pravice do spremenljivih ali stalnih plačil kot nadomestilo za izkoriščanje ali pravico do izkoriščanja nahajališč rude, virov ter drugega naravnega bogastva; ladje, čolni in zrakoplovi se ne štejejo za nepremičnine.

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

4. Določbe prvega in tretjega odstavka se uporabljajo tudi za dohodek iz nepremičnin podjetja.

7. člen

POSLOVNI DOBIČEK

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

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

3. Pri ugotavljanju dobička stalne poslovne enote je dovoljeno odšteti stroške (razen stroškov, ki jih ne bi bilo mogoče odšteti, če bi bila ta poslovna enota ločeno podjetje države pogodbenice), ki nastanejo za namene stalne poslovne enote, vključno s poslovnimi in splošnimi upravnimi stroški, ki so nastali v državi, v kateri je stalna poslovna enota, ali drugje.

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

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

6. Za namene prejšnjih odstavkov se dobiček, ki se pripiše stalni poslovni enoti, vsako leto ugotavlja po enaki metodi, razen če ni upravičenega in zadostnega razloga za nasprotno.

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

CHAPTER III TAXATION OF INCOME

Article 6

INCOME FROM IMMOVABLE PROPERTY

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

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

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7

BUSINESS PROFITS

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

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

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses (other than expenses which would not be deductible if that permanent establishment were a separate enterprise of a Contracting State) which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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

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

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

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

8. člen

LADIJSKI IN ZRAČNI PREVOZ

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

2. Če je sedež dejanske uprave ladjarskega podjetja na ladji, se šteje, da je v državi pogodbenici, v kateri je matično pristanišče ladje, če ni takega matičnega pristanišča, pa v državi pogodbenici, katere rezident je ladijski prevoznik.

3. Določbe prvega odstavka se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju, mešanem podjetju ali mednarodni prevozniki agenciji.

9. člen

POVEZANA PODJETJA

1. Kadar:

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

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

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

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

10. člen

DIVIDENDE

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

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

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

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

Pristojna organa držav pogodbenic s skupnim dogovorom uredita način uporabe teh omejitev.

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

Article 8

SHIPPING AND AIR TRANSPORT

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

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

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

Article 9

ASSOCIATED ENTERPRISES

1. Where

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

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

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

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

Article 10

DIVIDENDS

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

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

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

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

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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

3. Izraz »dividende«, kakor je uporabljen v tem členu, pomeni dohodek iz delnic, ustanoviteljskih delnic ali drugih pravic do udeležbe pri dobičku, ki niso terjatve, in tudi dohodek iz drugih korporacijskih pravic, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države, katere rezident je družba, ki dividende deli.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik dividend, ki je rezident države pogodbenice, posluje prek stalne poslovne enote v drugi državi pogodbenici, katere rezident je družba, ki dividende plačuje, in je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto. V tem primeru se uporabljajo določbe 7. člena.

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

11. člen OBRESTI

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

2. Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik obresti rezident druge države pogodbenice, tako obračunani davek ne sme presežati 5 odstotkov bruto zneska obresti. Pristojna organa držav pogodbenic s skupnim dogovorom uredita način uporabe te omejitve.

3. Ne glede na določbe drugega odstavka so obresti, ki nastanejo v državi pogodbenici, oproščene davka v tej državi, če so jih dosegli vlada, politična enota ali organ lokalne oblasti druge države pogodbenice ali centralna banka te druge države in so v njihovi upravičeni lasti.

4. Izraz »obresti«, kakor je uporabljen v tem členu, pomeni dohodek iz vseh vrst terjatev ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali dajejo pravico do udeležbe pri dolžnikovem dobičku, zlasti pa dohodek iz državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami od takih vrednostnih papirjev, obveznic ali zadolžnic. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

5. Določbe prvega, drugega in tretjega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje prek stalne poslovne enote v drugi državi pogodbenici, v kateri obresti nastanejo, in je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto. V tem primeru se uporabljajo določbe 7. člena.

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

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

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

Article 11 INTEREST

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

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

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if it is derived and beneficially owned by the Government of the other Contracting State, a political subdivision or a local authority thereof, or the Central Bank of that other State.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

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

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

12. člen

LICENČNINE IN AVTORSKI HONORARJI

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

2. Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako obračunani davek ne sme presežati 5 odstotkov bruto zneska licenčnin in avtorskih honorarjev. Pristojna organa držav pogodbenic s skupnim dogovorom uredita način uporabe te omejitve.

3. Izraz »licenčnine in avtorski honorarji«, kakor je uporabljen v tem členu, pomeni vse vrste plačil, prejetih kot povračilo za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno, umetniško ali znanstveno delo, vključno s kinematografskimi filmi, katerega koli patenta, blagovne znamke, vzorca ali modela, načrta, tajne formule ali postopka ali za informacije o industrijskih, komercialnih ali znanstvenih izkušnjah.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčnin in avtorskih honorarjev, ki je rezident države pogodbenice, posluje prek stalne poslovne enote v drugi državi pogodbenici, v kateri licenčnine in avtorski honorarji nastanejo, in je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto. V tem primeru se uporabljajo določbe 7. člena.

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

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

13. člen

KAPITALSKI DOBIČKI

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

2. Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo delnic ali kakršnih koli primerljivih deležev, katerih več kot 50 odstotkov vrednosti izhaja neposredno ali posredno iz nepremičnin, ki so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

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

Article 12

ROYALTIES

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

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

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

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

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

Article 13

CAPITAL GAINS

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

2. Gains derived by a resident of a Contracting State from the alienation of shares or of an comparable interest of any kind deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

3. Dobiček iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem), se lahko obdavči v tej drugi državi.

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

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

6. Določbe petega odstavka ne vplivajo na pravico vsake od držav pogodbenic, da v skladu s svojo zakonodajo odmeri davek od dobička iz odtujitve deležev ali pravic v družbi, katere kapital je v celoti ali delno razdeljen na deleže in ki je po zakonodaji te države njen rezident, ki ga doseže posameznik, ki je rezident druge države pogodbenice in ki je bil rezident prve omenjene države zadnjih pet let pred odtujitvijo deležev ali pravic.

14. člen

DOHODEK IZ ZAPOSLOTITVE

1. Ob upoštevanju določb 15., 16., 17., 18. in 19. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev ne izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako dobljeni prejemki obdavčijo v tej drugi državi.

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

a) je prejemnik navzoč v drugi državi v obdobju ali obdobjih, ki skupno ne presegajo 183 dni v katerem koli dvanajst-mesečnem obdobju, ki se začne ali konča v posameznem davčnem letu, in

b) prejemek plača delodajalec, ki ni rezident druge države, ali se plača v njegovem imenu ter

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

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

15. člen

PREJEMKI DIREKTORJEV

Prejemki direktorjev in druga podobna plačila, ki jih dobi rezident države pogodbenice kot član uprave ali podobnega organa družbe, ki je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

16. člen

UMETNIKI IN ŠPORTNIKI

1. Ne glede na določbe 7. in 14. člena se lahko dohodek, ki ga dobi rezident države pogodbenice kot nastopajoči izvajalec, kakor je gledališki, filmski, radijski ali televizijski umetnik ali glasbenik, ali kot športnik iz takih osebnih dejavnosti, ki jih opravlja v drugi državi pogodbenici, obdavči v tej drugi državi.

3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

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

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

6. The provisions of paragraph 5 shall not affect the right of each of the Contracting States to levy according to its own law a tax on gains from the alienation of shares or rights in a company, the capital of which is wholly or partly divided into shares and which under the laws of that State is a resident of that State, derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned State in the course of the last five years preceding the alienation of the shares or rights.

Article 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 16, 17, 18 and 19 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

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

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

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

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

Article 15

DIRECTORS' FEES

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

Article 16

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Article 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Kadar dohodek iz osebnih dejavnosti, ki jih opravlja nastopajoči izvajalec ali športnik kot tak, ne priraste nastopajočemu izvajalcu ali športniku, temveč drugi osebi, se ta dohodek kljub določbam 7. in 14. člena lahko obdavči v državi pogodbenici, v kateri je nastopil izvajalec ali športnik.

3. Določbe prvega in drugega odstavka se ne uporabljajo za dohodek iz dejavnosti, ki jih nastopajoči izvajalec ali športnik opravlja v državi pogodbenici, če se gostovanje v tej državi v celoti ali pretežno krije iz javnih sredstev druge države pogodbenice ali njene politične enote ali lokalne oblasti. V tem primeru se dohodek obdavči samo v državi pogodbenici, katere rezident je nastopajoči izvajalec ali športnik.

17. člen
POKOJNINE

Ob upoštevanju določb drugega odstavka 18. člena se pokojnine in drugi podobni prejemki, ki se izplačujejo rezidentu države pogodbenice za preteklo zaposlitev, obdavčijo samo v tej državi.

18. člen
DRŽAVNA SLUŽBA

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

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

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

2. a) Pokojnina, ki jo plačuje država pogodbenica ali njena politična enota ali lokalna oblast ali ki se plačuje iz njihovih skladov posamezniku za storitve, opravljene za to državo ali enoto ali oblast, se obdavči samo v tej državi.

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

3. Za plače, mezde in druge podobne prejemke ter za pokojnine za storitve, opravljene v zvezi s poslovanjem države pogodbenice ali njene politične enote ali lokalne oblasti, se uporabljajo določbe 14., 15., 16., in 17. člena.

19. člen
PROFESORJI IN RAZISKOVALCI

1. Rezident države pogodbenice, ki je na povabilo univerze, višje ali visoke šole, šole ali druge podobne ustanove, ki je v drugi državi pogodbenici in jo priznava vlada te druge države pogodbenice, začasno navzoč v tej drugi državi pogodbenici samo zaradi poučevanja ali raziskovanja ali obojega v izobraževalni ustanovi, je za največ dve leti od prvega prihoda v to drugo državo pogodbenico oproščen davka v tej drugi državi pogodbenici za prejemke za poučevanje ali raziskovanje.

2. Oprostitev po prvem odstavku se ne prizna za prejemke za raziskovanje, če se tako raziskovanje ne izvaja v javno korist, ampak v zasebno korist določene osebe ali oseb.

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

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an entertainer or sportsman if the visit to that State is wholly or mainly supported by public funds of the other Contracting State or a political subdivision or a local authority thereof. In such a case, the income shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

Article 17
PENSIONS

Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 18
GOVERNMENT SERVICE

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

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

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

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

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

3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 19
PROFESSORS AND RESEARCHERS

1. A resident of the Contracting State who, at the invitation of a university, college, school or other similar institution, situated in the other Contracting State and recognised by the Government of that other Contracting State, is temporarily present in that other Contracting State solely for the purpose of teaching, or engaging in research, or both, at the educational institution shall, for a period not exceeding two years from the date of his first arrival in that other Contracting State, be exempt from tax in that other Contracting State on his remuneration for such teaching or research.

2. No exemption shall be granted under paragraph 1 with respect to any remuneration for research if such research is undertaken not in the public interest but for the private benefit of a specific person or persons.

20. člen
ŠTUDENTI

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

21. člen
DRUGI DOHODKI

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

2. Določbe prvega odstavka se ne uporabljajo za dohodek, ki ni dohodek iz nepremičnin, kakor so opredeljene v drugem odstavku 6. člena, če prejemnik takega dohodka, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici prek stalne poslovne enote v njej in je pravica ali premoženje, v zvezi s katerim se plača dohodek, dejansko povezano s stalno poslovno enoto. V tem primeru se uporabljajo določbe 7. člena.

**IV. POGLAVJE
METODE ZA ODPRavo DVOJNEGA OBDAVČEVANJA**

22. člen

ODPRAVA DVOJNEGA OBDAVČEVANJA

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

Tak odbitek ne sme preseirati tistega dela pred odbitkom izračunanega davka od dohodka, ki se nanaša na dohodek, ki se lahko obdavči v tej drugi državi.

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

**V. POGLAVJE
POSEBNE DOLOČBE**

23. člen

ENAKO OBRAVNAVANJE

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

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

Article 20
STUDENTS

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

Article 21
OTHER INCOME

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

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

**CHAPTER IV
METHODS FOR ELIMINATION OF DOUBLE TAXATION**

Article 22

ELIMINATION OF DOUBLE TAXATION

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

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

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

**CHAPTER V
SPECIAL PROVISIONS**

Article 23

NON-DISCRIMINATION

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

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

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

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

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

24. člen

POSTOPEK SKUPNEGA DOGOVORA

1. Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanjo za posledico obdavčenje, ki ni v skladu z določbami te konvencije, lahko ne glede na pravna sredstva, ki ji jih omogoča domače pravo teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njen primer nanaša na prvi odstavek 23. člena, tiste države pogodbenice, katere državljan je. Zadeva mora biti predložena v treh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčenje, ki ni v skladu z določbami konvencije.

2. Če se pristojnemu organu zdi pritožba upravičena in če sam ne najde zadovoljive rešitve, si prizadeva rešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice, da bi se izognili obdavčenju, ki ni v skladu s konvencijo. Vsak dosežen dogovor se izvaja ne glede na roke v domačem pravu držav pogodbenic.

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

4. Da bi pristojna organa držav pogodbenic dosegla dogovor v skladu s prejšnjimi odstavki, se lahko dogovarjata neposredno.

25. člen

IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjavata informacije, ki so predvidoma pomembne za izvajanje določb te konvencije ali za izvajanje ali uveljavljanje domače zakonodaje glede davkov vseh vrst in opisov, ki se uvedejo v imenu držav pogodbenic ali njenih političnih enot ali lokalnih oblasti, če obdavčevanje na njeni podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. in 2. členom.

2. Vsaka informacija, ki jo država pogodbenica prejme po prvem odstavku, se obravnava kot tajnost enako kakor informacije, pridobljene po domači zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženi pri odmeri ali pobiranju davkov, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov iz prvega odstavka ali pri nadzoru nad omenjenim. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo v javnih sodnih postopkih ali sodnih odločbah.

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

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

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

Article 24

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

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

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. Določbe prvega in drugega odstavka se v nobenem primeru ne razlagajo, kakor da nalagajo državi pogodbenici obveznost:

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

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

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

4. Če država pogodbenica zahteva informacije v skladu s tem členom, druga država pogodbenica sprejme ukrepe za pridobitev zahtevanih informacij, tudi če jih ta druga država morda ne potrebuje za svoje davčne namene. Za obveznost iz prejšnjega stavka veljajo omejitve iz tretjega odstavka, toda v nobenem primeru se take omejitve ne razlagajo tako, kakor da država pogodbenica lahko zavrne predložitev informacij samo zato, ker sama zanje nima interesa.

5. V nobenem primeru se določbe tretjega odstavka ne razlagajo tako, kakor da država pogodbenica lahko zavrne predložitev informacij samo zato, ker jih hrani banka, druga finančna ustanova, pooblaščenec ali oseba, ki deluje kot zastopnik ali fiduciar, ali zato, ker so povezane z lastniškimi deleži v neki osebi.

26. člen

ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN KONZULATOV

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

VI. POGLAVJE KONČNE DOLOČBE

27. člen

ZAČETEK VELJAVNOSTI

1. Državi pogodbenici se po diplomatski poti pisno obvestita, da so končani postopki, ki se po njuni zakonodaji zahtevajo za začetek veljavnosti te konvencije. Konvencija začne veljati na dan prejema zadnjega uradnega obvestila.

2. Ta konvencija se uporablja:

a) v zvezi z davki, odtegnjenimi pri viru, za dohodek, dosežen 1. januarja ali po njem v koledarskem letu po letu, v katerem začne veljati konvencija;

b) v zvezi z drugimi davki od dohodka za davke, obračunane za katero koli davčno leto, ki se začne 1. januarja ali po njem v koledarskem letu po letu, v katerem začne veljati konvencija.

28. člen

PRENEHANJE VELJAVNOSTI

1. Ta konvencija velja, dokler je ena država pogodbenica ne odpove. Vsaka država pogodbenica lahko odpove konvencijo po diplomatski poti s pisnim obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta po petih letih od dneva začetka veljavnosti konvencije. V tem primeru se konvencija preneha uporabljati:

a) v zvezi z davki, odtegnjenimi pri viru, za dohodek, dosežen 1. januarja ali po njem v koledarskem letu po letu, v katerem je dano obvestilo o odpovedi;

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

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

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

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

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 26

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

CHAPTER VI FINAL PROVISIONS

Article 27

ENTRY INTO FORCE

1. The Contracting States shall notify each other in writing, through diplomatic channels, that the procedures required by its law for the entry into force of this Convention have been satisfied. The Convention shall enter into force on the date of receipt of the last notification.

2. This Convention shall be applicable:

a) in respect of taxes withheld at source, to income derived on or after 1 January of the calendar year next following the year in which the Convention enters into force;

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

Article 28

TERMINATION

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

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

b) v zvezi z drugimi davki od dohodka za davke, obračunane za katero koli davčno leto, ki se začne 1. januarja ali po njem v koledarskem letu po letu, v katerem je dano obvestilo o odpovedi.

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

SESTAVLJENO v dveh izvornikih v Reykjaviku dne 4. maja 2011 v slovenskem, islandskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri razlikah med besedili prevlada angleško besedilo.

Za Republiko Slovenijo
Darja Radić l.r.

Za Islandijo:
Össur Skarphéðinsson l.r.

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

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Convention.

DONE in duplicate at Reykjavik this 4th day of May 2011, in the Slovenian, Icelandic and English languages, all texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

For the Republic of Slovenia
Darja Radić (s)

For Iceland
Össur Skarphéðinsson (s)

3. člen

Za izvajanje konvencije skrbi ministrstvo, pristojno za finance.

4. člen

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

Št. 432-01/12-10/11
Ljubljana, dne 11. julija 2012
EPA 444-VI

Državni zbor
Republike Slovenije
dr. Gregor Virant l.r.
Predsednik

45. Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Republike Azerbajdžan o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, s protokolom (BAZIDO)

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

U K A Z

o razglasitvi Zakona o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Republike Azerbajdžan o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, s protokolom (BAZIDO)

Razglašam Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Republike Azerbajdžan o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, s protokolom (BAZIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 11. julija 2012.

Št. 003-02-6/2012-10
Ljubljana, dne 19. julija 2012

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N

O RATIFIKACIJI KONVENCIJE MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE AZERBAJDŽAN O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA, S PROTOKOLOM (BAZIDO)

1. člen

Ratificira se Konvencija med Vlado Republike Slovenije in Vlado Republike Azerbajdžan o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, s protokolom, podpisana v Ljubljani 9. junija 2011.

2. člen

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

K O N V E N C I J A

**MED
VLADO REPUBLIKE SLOVENIJE
IN
VLADO REPUBLIKE AZERBAJDŽAN
O IZOGIBANJU DVOJNEGA OBDAVČEVANJA
IN PREPREČEVANJU DAVČNIH UTAJ
V ZVEZI Z DAVKI OD DOHODKA
IN PREMOŽENJA**

Vlada Republike Slovenije in Vlada Republike Azerbajdžan sta se v želji, da bi sklenili konvencijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja,

sporazumeli:

1. ČLEN

OSEBE, ZA KATERE SE UPORABLJA KONVENCIJA

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

2. ČLEN

DAVKI, ZA KATERE SE UPORABLJA KONVENCIJA

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

C O N V E N T I O N

**BETWEEN
THE GOVERNMENT OF THE REPUBLIC
OF SLOVENIA AND THE GOVERNMENT
OF THE REPUBLIC OF AZERBAIJAN
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME
AND ON CAPITAL**

The Government of the Republic of Slovenia and the Government of the Republic of Azerbaijan, desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital,

Have agreed as follows:

ARTICLE 1

PERSONS COVERED

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

ARTICLE 2

TAXES COVERED

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

* Besedilo konvencije s protokolom v azerbajdžanskem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

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

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

- a) v Azerbajdžanu:
 - (i) davek od dohodkov fizičnih oseb,
 - (ii) davek od dobička pravnih oseb,
 - (iii) davek od premoženja,
 - (iv) davek na zemljiško posest
 (v nadaljevanju »azerbajdžanski davek«);
- b) v Sloveniji:
 - (i) davek od dohodkov pravnih oseb,
 - (ii) dohodnina,
 - (iii) davek od premoženja
 (v nadaljevanju »slovenski davek«).

4. Konvencija se uporablja tudi za enake ali vsebinsko podobne davke, ki se po dnevu podpisa konvencije uvedejo poleg obstoječih davkov ali namesto njih. Pristojna organa držav pogodbenic drug drugega uradno obvestita o vseh bistvenih spremembah njihovih davčnih zakonodaj.

3. ČLEN

SPLOŠEN POMEN IZRAZOV

1. V tej konvenciji, razen če sobesedilo ne zahteva drugače:

a) izraz »Azerbajdžan« pomeni ozemlje Republike Azerbajdžan, vključno z delom Kaspijskega morja (jezera), ki pripada Republikli Azerbajdžan, zračnim prostorom nad Republiko Azerbajdžan, na katerem Republika Azerbajdžan uveljavlja svoje suverene pravice in jurisdikcijo v zvezi s podzemljem, morskim dnem in naravnimi viri, ter vsakim drugim območjem, ki je bilo ali bo mogoče nadalje določeno skladno z mednarodnim pravom in zakonodajo Republike Azerbajdžan;

b) izraz »Slovenija« pomeni Republiko Slovenijo, in kadar se uporablja v geografskem pomenu, ozemlje Slovenije in tista morska območja, na katerih lahko Slovenija izvaja svoje suverene pravice ali jurisdikcijo skladno s svojo notranjo zakonodajo in mednarodnim pravom;

c) izraza »država pogodbenica« in »druga država pogodbenica« pomenita Slovenijo ali Azerbajdžan, kakor zahteva sobesedilo;

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

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

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

g) izraz »mednarodni promet« pomeni prevoz z ladjo ali zrakoplovom, ki ga opravlja podjetje države pogodbenice, razen če se z ladjo ali zrakoplovom ne opravljajo prevozi samo med kraji v drugi državi pogodbenici;

h) izraz »pristojni organ« pomeni:

(i) v Azerbajdžanu: Ministrstvo za finance in Ministrstvo za davke;

(ii) v Sloveniji: Ministrstvo za finance ali njegovega pooblaščenega predstavnika;

i) izraz »državljan« v zvezi z državo pogodbenico pomeni:

(i) posameznika, ki ima državljanstvo države pogodbenice;

(ii) pravno osebo, partnerstvo ali združenje, katerega status izhaja iz veljavne zakonodaje v tej državi pogodbenici.

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

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

- a) in Azerbaijan:
 - (i) the income tax of physical persons;
 - (ii) the profit tax of legal persons;
 - (iii) the tax on property;
 - (iv) the land tax
 (hereinafter referred to as "Azerbaijani tax");
- b) in Slovenia:
 - (i) the tax on income of legal persons;
 - (ii) the tax on income of individuals;
 - (iii) the tax on property
 (hereinafter referred to as "Slovenian tax").

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

ARTICLE 3

GENERAL DEFINITIONS

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

a) the term "Azerbaijan" means the territory of the Republic of Azerbaijan, including the Caspian Sea (Lake) sector belonging to the Republic of Azerbaijan, the air space above the Republic of Azerbaijan, within which the sovereign rights and jurisdiction of the Republic of Azerbaijan is implemented in respect to subsoil, sea bed and natural resources, and any other area which has been or may hereinafter be determined in accordance with international law and legislation of the Republic of Azerbaijan;

b) the term "Slovenia" means the Republic of Slovenia and, when used in a geographical sense, means the territory of Slovenia as well as those maritime areas over which Slovenia may exercise sovereign or jurisdictional rights in accordance with its internal legislation and international law;

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

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

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

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

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

h) the term "competent authority" means:

(i) in Azerbaijan: the Ministry of Finance and the Ministry of Taxes;

(ii) in Slovenia: the Ministry of Finance or its authorised representative;

i) the term "national", in relation to a Contracting State, means:

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

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

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

4. ČLEN REZIDENT

1. V tej konvenciji izraz »rezident države pogodbenice« pomeni osebo, ki mora po zakonodaji te države plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave, kraja registracije ali katerega koli drugega podobnega merila, in vključuje tudi to državo in katero koli njeno upravnoozemeljsko ali politično enoto ali lokalno oblast. Ta izraz pa ne vključuje osebe, ki mora plačevati davke v tej državi samo v zvezi z dohodki iz virov v tej državi ali od premoženja v njej.

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

a) šteje se samo za rezidenta države, v kateri ima na voljo stalni dom; če ima stalni dom na voljo v obeh državah, se šteje samo za rezidenta države, s katero ima tesnejše osebne in ekonomske stike (središče življenjskih interesov);

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

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

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

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

5. ČLEN STALNA POSLOVNA ENOTA

1. V tej konvenciji izraz »stalna poslovna enota« pomeni stalno mesto poslovanja, prek katerega v celoti ali delno potekajo posli podjetja.

2. Izraz »stalna poslovna enota« vključuje zlasti:

- a) sedež uprave;
- b) podružnico;
- c) pisarno;
- d) tovarno;
- e) delavnico;
- f) postavitve, konstrukcijo ali plovilo ali kateri koli drug prostor, ki se uporablja za raziskovanje naravnih virov, in
- g) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov.

3. Šteje se, da izraz »stalna poslovna enota« vključuje tudi:

a) gradbišče, projekt gradnje, montaže ali postavitve ali dejavnost nadzora v zvezi z njimi, a samo če tako gradbišče, projekt ali dejavnost traja na ozemlju države pogodbenice več kot 12 mesecev;

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

ARTICLE 4 RESIDENT

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

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

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

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

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

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

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

ARTICLE 5 PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop;
- f) an installation, structure or vessel or any other place used for the exploration of natural resources, and
- g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term "permanent establishment" shall also be deemed to include:

a) a building site, a construction, assembly or installation project, or supervisory activities in connection therewith, but only if such site, project or activity lasts in the territory of a Contracting State for a period of more than 12 months;

b) storitve, vključno s svetovalnimi storitvami, ki jih podjetje opravlja z zaposlenimi delavci ali drugimi osebami, ki jih uporabi za ta namen, a samo če take dejavnosti (za isti ali z njim povezan projekt) še naprej potekajo v državi pogodbenici v obdobju ali obdobjih, ki v katerem koli dvanajstmesečnem obdobju skupaj znašajo več kot 6 mesecev.

4. Ne glede na prejšnje določbe tega člena se šteje, da izraz »stalna poslovna enota« ne vključuje:

a) uporabe prostorov samo za skladiščenje, razstavljanje ali dostavo dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za skladiščenje, razstavljanje ali dostavo;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za predelavo, ki jo opravi drugo podjetje;

d) vzdrževanja stalnega mesta poslovanja samo za nakup dobrin ali blaga za podjetje ali zbiranje informacij za podjetje;

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

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih od a do e, če je celotna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalna ali pomožna.

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

6. Ne glede na prejšnje določbe tega člena se za varovalnico države pogodbenice, razen v zvezi s pozavarovanjem, šteje, da ima stalno poslovno enoto v drugi državi pogodbenici, če pobira premije na ozemlju te druge države ali zavaruje nevarnosti, ki tam obstajajo, prek osebe, ki ni zastopnik z neodvisnim statusom, za katerega se uporablja sedmi odstavek.

7. Ne šteje se, da ima podjetje stalno poslovno enoto v državi pogodbenici samo zato, ker posluje v tej državi prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, če te osebe delujejo v okviru svojega rednega poslovanja. Kadar pa so dejavnosti takega zastopnika v celoti skoraj v celoti namenjene temu podjetju ter se med podjetjem in zastopnikom v njihovih komercialnih ali finančnih odnosih vzpostavijo ali določijo pogoji, drugačni od tistih, ki bi se vzpostavili med neodvisnimi podjetji, se ta ne šteje za zastopnika z neodvisnim statusom v smislu tega odstavka.

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

b) the furnishing of services, including consultancy services, by an enterprise through its employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue (for the same or a connected project) within a Contracting State for a period or periods aggregating more than 6 months within any twelve-month period.

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

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

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

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

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

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

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

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 7 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.

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

6. ČLEN**DOHODEK IZ NEPREMIČNIN**

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

2. Izraz »nepremičnine« pomeni enako kakor po pravu države pogodbenice, v kateri so te nepremičnine. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere se uporabljajo določbe splošnega prava v zvezi z zemljiško lastnino, užitek na nepremičninah in pravice do spremenljivih ali stalnih plačil kot nadomestilo za izkoriščanje ali pravico do izkoriščanja nahajališč rude, virov ter drugega naravnega bogastva; ladje in zrakoplovi se ne štejejo za nepremičnine.

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

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

7. ČLEN**POSLOVNI DOBIČEK**

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

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

3. Pri ugotavljanju dobička stalne poslovne enote je dovoljeno odšteti vse stroške (razen stroškov, ki jih ne bi bilo mogoče odšteti, če bi bila ta poslovna enota ločeno podjetje države pogodbenice), ki nastanejo za namene stalne poslovne enote, vključno s poslovnimi in splošnimi upravnimi stroški, ki so nastali v državi, v kateri je stalna poslovna enota, ali drugje.

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

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

6. Za namene prejšnjih odstavkov se dobiček, ki se pripiše stalni poslovni enoti, vsako leto ugotavlja po enaki metodi, razen če ni upravičenega in zadostnega razloga za nasprotno.

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

ARTICLE 6**INCOME FROM IMMOVABLE PROPERTY**

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

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

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

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

ARTICLE 7**BUSINESS PROFITS**

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

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

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses (other than expenses which would not be deductible if that permanent establishment were a separate enterprise of a Contracting State) which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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

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

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

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

8. ČLEN**LADIJSKI IN ZRAČNI PREVOZ**

1. Dobiček podjetja države pogodbenice iz opravljanja ladijskih ali zračnih prevozov v mednarodnem prometu se obdavči samo v tej državi.

2. Za namen tega člena dobiček iz opravljanja ladijskih in zračnih prevozov v mednarodnem prometu vključuje tudi:

a) dobiček od dajanja v najem praznih ladij ali zrakoplovov v mednarodnem prometu in

b) dobiček od uporabe, vzdrževanja ali dajanja v najem zabojnikov, ki se uporabljajo v mednarodnem prometu (vključno s priklopniki in povezano opremo za prevoz zabojnikov),

če so tovrstne dejavnosti dopolnilne ali občasne pri opravljanju ladijskih ali zračnih prevozov v mednarodnem prometu.

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

9. ČLEN**POVEZANA PODJETJA**

1. Kadar:

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

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

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

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

10. ČLEN**DIVIDENDE**

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

2. Take dividende pa se lahko obdavčijo tudi v državi pogodbenici, katere rezident je družba, ki dividende plačuje, in v skladu z zakonodajo te države, če pa je upravičeni lastnik dividend rezident druge države pogodbenice, tako obračunani davek ne sme presežati 8 odstotkov bruto zneska dividend.

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

3. Izraz »dividende«, kakor je uporabljen v tem členu, pomeni dohodek iz delnic, ustanoviteljskih delnic ali drugih pravic do udeležbe pri dobičku, ki niso terjatve, in tudi dohodek iz drugih korporacijskih pravic, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države, katere rezident je družba, ki dividende deli.

ARTICLE 8**SHIPPING AND AIR TRANSPORT**

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall also include:

a) profits from the bareboat rental of ships or aircraft in international traffic; and

b) profits from the use, maintenance or rental of containers in international traffic (including trailers and related equipment for the transportation of containers)

if this kind of activities are supplementary or incidental to the operation of ships or aircraft in international traffic.

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

ARTICLE 9**ASSOCIATED ENTERPRISES**

1. Where

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

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

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

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

ARTICLE 10**DIVIDENDS**

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 8 per cent of the gross amount of the dividends.

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

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

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

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

11. ČLEN OBRESTI

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

2. Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in sicer v skladu z zakonodajo te države, če pa je upravičeni lastnik obresti rezident druge države pogodbenice, tako obračunani davek ne sme presegati 8 odstotkov bruto zneska obresti.

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

a) je plačnik obresti vlada te države pogodbenice ali njena upravnozemeljska ali politična enota, lokalna oblast ali centralna banka;

b) se obresti plačajo vladi druge države pogodbenice ali njeni upravnozemeljski ali politični enoti, lokalni oblasti ali centralni banki;

c) se obresti plačajo za posojilo, ki ga je v imenu Republike Slovenije dala, odobrila, zanj dala poroštvo ali ga zavarovala SID banka (Slovenska izvozna in razvojna banka), d. d., Ljubljana, ki je po notranjem pravu Republike Slovenije pooblaščen za zavarovanje in financiranje mednarodnih gospodarskih poslov;

d) se obresti plačajo Državnemu naftnemu skladu Republike Azerbajdžan.

4. Izraz »obresti«, kakor je uporabljen v tem členu, pomeni dohodek iz vseh vrst terjatev ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali dajejo pravico do udeležbe pri dolžnikovem dobičku, zlasti dohodek iz državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami od takih vrednostnih papirjev, obveznic ali zadolžnic. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

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

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

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

ARTICLE 11 INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 8 per cent of the gross amount of the interest.

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

a) the payer of the interest is the Government of that Contracting State or an administrative-territorial or political subdivision or a local authority or Central Bank thereof;

b) the interest is paid to the Government of the other Contracting State or an administrative-territorial or political subdivision or a local authority or Central Bank thereof;

c) the interest is paid in respect of a loan made, approved, guaranteed or insured, on behalf of the Republic of Slovenia, by the SID Bank (Slovenian Export and Development Bank) Inc. Ljubljana which is authorized under the domestic legislation of the Republic of Slovenia on insurance and financing of international business transactions;

d) the interest is paid to the State Oil Fund of the Republic of Azerbajjan.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or such fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

12. ČLEN

LICENČNINE IN AVTORSKI HONORARJI

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

2. Take licenčnine in avtorski honorarji pa se lahko obdavičuje tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako obračunani davek ne sme presegati:

a) 5 odstotkov bruto zneska licenčnin in avtorskih honorarjev, plačanih za uporabo ali pravico do uporabe programske opreme, katerega koli patenta, vzorca ali modela, načrta, tajne formule ali postopka ali za informacije o industrijskih, komercialnih ali znanstvenih izkušnjah;

b) 10 odstotkov bruto zneska licenčnin in avtorskih honorarjev v vseh drugih primerih.

3. Izraz "licenčnine in avtorski honorarji", kakor je uporabljen v tem členu, pomeni vse vrste plačil, prejetih kot povračilo za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno, umetniško ali znanstveno delo, vključno s kinematografskimi filmi, programsko opremo, katerega koli patenta, blagovne znamke, vzorca ali modela, načrta, tajne formule ali postopka ali za informacije o industrijskih, komercialnih ali znanstvenih izkušnjah.

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

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

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

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

ARTICLE 12

ROYALTIES

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

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

a) 5 per cent of the gross amount of the royalties paid for the use of or the right to use a computer software, any patent, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience;

b) 10 percent of the gross amount of the royalties in all other cases.

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

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

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

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

13. ČLEN KAPITALSKI DOBIČKI

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

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

3. Dobiček, ki ga podjetje države pogodbenice doseže z odtujitvijo ladij ali zrakoplovov, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premičnin, ki se nanašajo na opravljanje prevozov s takimi ladjami ali zrakoplovi, se obdavlji samo v tej državi.

4. Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo delnic ali drugih primerljivih deležev, katerih več kot 50 odstotkov vrednosti izhaja neposredno ali posredno iz nepremičnin, ki so v drugi državi pogodbenici, se lahko obdavlji v tej drugi državi.

5. Dobiček iz odtujitve premoženja, ki ni navedeno v prvem, drugem, tretjem in četrtem odstavku, se obdavlji samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

14. ČLEN SAMOSTOJNE OSEBNE STORITVE

1. Dohodek, ki ga rezident države pogodbenice dobi s poklicnimi storitvami ali drugimi samostojnimi dejavnostmi, se obdavlji samo v tej državi, razen v naslednjih okoliščinah, ko se tak dohodek lahko obdavlji tudi v drugi državi pogodbenici:

a) če ima v drugi državi pogodbenici za opravljanje svojih dejavnosti redno na voljo stalno bazo; v tem primeru se lahko v tej drugi državi pogodbenici obdavlji samo toliko dohodka, kolikor se pripíše tej stalni bazi, ali

b) če v drugi državi pogodbenici ostane v obdobju ali obdobjih, ki skupaj trajajo ali presegajo 183 dni v katerem koli dvanajstmesečnem obdobju, ki se začne ali konča v posameznem davčnem letu; v tem primeru se lahko v tej drugi državi obdavlji samo toliko dohodka, kolikor ga doseže s svojimi dejavnostmi, opravljenimi v tej drugi državi.

2. Izraz »poklicne storitve« še zlasti vključuje samostojne znanstvene, literarne, umetniške, vzgojne ali izobraževalne dejavnosti in tudi samostojne dejavnosti zdravnikov, odvetnikov, inženirjev, arhitektov, zobozdravnikov, računovodij in revizorjev.

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

ARTICLE 13 CAPITAL GAINS

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

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

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

4. Gains derived by a resident of a Contracting State from the alienation of shares or of any other comparable interest deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

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

ARTICLE 14 INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

a) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

b) If his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

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

15. ČLEN**DOHODEK IZ ZAPOSLOTITVE**

1. Ob upoštevanju določb 16., 18. in 19. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev ne izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako dobljeni prejemki obdavčijo v tej drugi državi.

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

a) je prejemnik navzoč v drugi državi v obdobju ali obdobjih, ki skupno ne presegajo 183 dni v katerem koli dvanajst-mesečnem obdobju, ki se začne ali konča v posameznem davčnem letu, in

b) prejemek plača delodajalec, ki ni rezident druge države, ali se plača v njegovem imenu ter

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

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

16. ČLEN**PREJEMKI DIREKTORJEV**

Prejemki direktorjev in druga podobna plačila, ki jih dobi rezident države pogodbenice kot član upravnega odbora ali podobnega organa družbe, ki je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

17. ČLEN**UMETNIKI IN ŠPORTNIKI**

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

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

3. Določbe prvega in drugega odstavka se ne uporabljajo za dohodek iz dejavnosti, ki jih umetniki ali športniki opravljajo v državi pogodbenici, če se gostovanje v tej državi v celoti ali pretežno krije iz javnih sredstev ene ali obeh držav pogodbenic ali katerih koli njunih upravnoozemeljskih ali političnih enot ali lokalnih oblasti. V tem primeru se dohodek obdavči samo v državi pogodbenici, katere rezident je umetnik ali športnik.

18. ČLEN**POKOJNINE**

Ob upoštevanju določb drugega odstavka 19. člena se pokojnine in drugi podobni prejemki, ki se izplačujejo rezidentu države pogodbenice za preteklo zaposlitev, obdavčijo samo v tej državi.

ARTICLE 15**INCOME FROM EMPLOYMENT**

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

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

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

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

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

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

ARTICLE 16**DIRECTORS' FEES**

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

ARTICLE 17**ARTISTES AND SPORTSMEN**

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

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

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by artistes or sportsmen if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or any administrative-territorial or political subdivision or local authority thereof. In such a case, the income shall be taxable only in the Contracting State in which the artiste or sportsman is a resident.

ARTICLE 18**PENSIONS**

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

19. ČLEN DRŽAVNA SLUŽBA

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

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

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

2. a) Ne glede na določbe prvega odstavka se pokojnine in drugi podobni prejemki, ki jih plačuje država pogodbenica ali njena upravnoozemeljska ali politična enota ali lokalna oblast ali ki se plačujejo iz njihovih skladov posamezniku za storitve, opravljene za to državo ali enoto ali oblast, obdavčijo samo v tej državi.

b) Take pokojnine in drugi podobni prejemki pa se obdavčijo samo v drugi državi pogodbenici, če je posameznik rezident in državljan te države.

3. Za plače, mezde, pokojnine in druge podobne prejemke za storitve, opravljene v zvezi s poslovanjem države pogodbenice ali njene upravnoozemeljske ali politične enote ali lokalne oblasti, se uporabljajo določbe 15., 16., 17. in 18. člena.

20. ČLEN ŠTUDENTI

1. Plačila, ki jih za svoje vzdrževanje, izobraževanje ali usposabljanje prejme študent ali oseba na praksi, ki je ali je bila tik pred obiskom države pogodbenice rezident druge države pogodbenice in je v prvi omenjeni državi navzoča samo zaradi svojega izobraževanja ali usposabljanja, se ne obdavčijo v tej državi, če taka plačila izhajajo iz virov zunaj te države.

2. Pri nagradah, štipendijah in drugih podobnih prejemkih ter prejemkih iz zaposlitve, ki niso zajeti v prvem odstavku, je študent ali oseba na praksi iz prvega odstavka upravičena tudi do enakih davčnih oprostitev, olajšav ali odbitkov med takim izobraževanjem ali usposabljanjem kakor rezidenti države pogodbenice, v kateri je na obisku.

21. ČLEN DRUGI DOHODKI

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

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

ARTICLE 19 GOVERNMENT SERVICE

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

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

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

2. a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or an administrative-territorial or political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

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

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

ARTICLE 20 STUDENTS

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

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

ARTICLE 21 OTHER INCOME

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

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

22. ČLEN PREMOŽENJE

1. Premoženje v obliki nepremičnin iz 6. člena, ki je v lasti rezidenta države pogodbenice in je v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

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

3. Premoženje v obliki ladij in zrakoplovov, s katerimi podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, ali premičnin v zvezi z opravljanjem prevozov s takimi ladjami ali zrakoplovi se obdavči samo v tej državi.

4. Vse drugo premoženje rezidenta države pogodbenice se obdavči samo v tej državi.

23. ČLEN ODPRAVA DVOJNEGA OBDAVČEVANJA

1. Kadar rezident države pogodbenice doseže dohodek ali ima v lasti premoženje, ki se v skladu z določbami te konvencije lahko obdavči v drugi državi pogodbenici, prva omenjena država dovolj:

a) kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v tej drugi državi;

b) kot odbitek od davka od premoženja tega rezidenta znesek, ki je enak davku od premoženja, plačanemu v tej drugi državi.

Tak odbitek pa v nobenem primeru ne sme presežati tistega dela pred odbitkom izračunanega davka od dohodka ali premoženja, ki se nanaša, odvisno od primera, na dohodek ali premoženje, ki se lahko obdavči v tej drugi državi.

2. Kadar je v skladu s katero koli določbo konvencije dohodek, ki ga doseže rezident države pogodbenice, ali premoženje, ki ga ima v lasti, oproščeno davka v tej državi, lahko ta država pri izračunu davka od preostalega dohodka ali premoženja tega rezidenta kljub temu upošteva oproščeni dohodek ali premoženje.

24. ČLEN ENAKO OBRAVNAVANJE

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

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

ARTICLE 22 CAPITAL

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

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

3. Capital represented by ships and aircraft operated in international traffic by an enterprise of a Contracting State or by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

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

ARTICLE 23 ELIMINATION OF DOUBLE TAXATION

1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow:

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

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

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

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

ARTICLE 24 NON-DISCRIMINATION

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

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

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

4. Razen kadar se uporabljajo določbe prvega odstavka 9. člena, sedmega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih plača podjetje države pogodbenice rezidentu druge države pogodbenice, pri ugotavljanju obdavčljivega dobička takega podjetja odbijejo pod enakimi pogoji, kakor če bi bili plačani rezidentu prve omenjene države. Podobno se tudi kakršni koli dolgovi podjetja države pogodbenice rezidentu druge države pogodbenice pri ugotavljanju obdavčljivega premoženja takega podjetja odbijejo pod enakimi pogoji, kakor če bi bili pogodbeno dogovorjeni z rezidentom prve omenjene države.

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

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

25. ČLEN

POSTOPEK SKUPNEGA DOGOVORA

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

2. Če se pristojnemu organu zdi pritožba upravičena in če sam ne najde zadovoljive rešitve, si prizadeva rešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice, da bi se izognili obdavčenju, ki ni v skladu s konvencijo. Vsak dosežen dogovor se izvaja ne glede na roke v domačem pravu držav pogodbenic.

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

4. Da bi pristojna organa držav pogodbenic dosegla dogovor v skladu s prejšnjimi odstavki, se lahko dogovarjata neposredno, vključno v skupni komisiji, ki jo sestavljata sama ali njuni predstavniki.

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

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

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

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

ARTICLE 25

MUTUAL AGREEMENT PROCEDURE

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

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

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

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

26. ČLEN**IZMENJAVA INFORMACIJ**

1. Pristojna organa držav pogodbenic si izmenjavata informacije, ki so predvidoma pomembne za izvajanje določb te konvencije ali za izvajanje ali uveljavljanje domače zakonodaje glede davkov vseh vrst in opisov, ki se uvedejo v imenu držav pogodbenic ali njihovih upravnozemeljskih ali političnih enot ali lokalnih oblasti, če obdavčevanje na njeni podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. in 2. členom.

2. Vsaka informacija, ki jo država pogodbenica prejme po prvem odstavku, se obravnava kot tajnost enako kakor informacije, pridobljene po domači zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženi pri odmeri ali pobiranju davkov, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov iz prvega odstavka ali pri nadzoru nad omenjenim. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo v javnih sodnih postopkih ali sodnih odločbah.

3. Določbe prvega in drugega odstavka se v nobenem primeru ne razlagajo, kakor da nalagajo državi pogodbenici obveznost, da:

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

b) predloži informacije, ki jih ni mogoče dobiti na podlagi zakonodaje ali po običajni upravni poti te ali druge države pogodbenice,

c) predloži informacije, ki bi razkrile kakršno koli trgovinsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinski postopek, ali informacije, katerih razkritje bi bilo v nasprotju z javnim redom.

4. Če država pogodbenica zahteva informacije v skladu s tem členom, druga država pogodbenica sprejme ukrepe za pridobitev zahtevanih informacij, tudi če jih ta druga država morda ne potrebuje za svoje davčne namene. Za obveznost iz prejšnjega stavka veljajo omejitve iz tretjega odstavka, toda v nobenem primeru se take omejitve ne razlagajo tako, kakor da država pogodbenica lahko zavrne predložitev informacij samo zato, ker sama zanje nima interesa.

5. V nobenem primeru se določbe tretjega odstavka ne razlagajo tako, kakor da država pogodbenica lahko zavrne predložitev informacij samo zato, ker jih hrani banka, druga finančna institucija, pooblaščenec ali oseba, ki deluje kot zastopnik ali fiduciar, ali zato, ker so povezane z lastniškimi deleži v neki osebi.

27. ČLEN**ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV
IN KONZULATOV**

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

28. ČLEN**PROTOKOL**

Priloženi protokol je sestavni del te konvencije.

ARTICLE 26**EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their administrative-territorial or political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

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

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

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

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 27**MEMBERS OF DIPLOMATIC MISSIONS
AND CONSULAR POSTS**

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

Article 28**PROTOCOL**

The attached Protocol is an integral part of this Convention.

29. ČLEN**ZAČETEK VELJAVNOSTI**

1. Državi pogodbenici se po diplomatski poti pisno obvestita, da so končani postopki, ki se po njuni zakonodaji zahtevajo za začetek veljavnosti te konvencije. Konvencija začne veljati z dnem prejema zadnjega uradnega obvestila.

2. Ta konvencija se uporablja:

a) v zvezi z davki, odtegnjenimi pri viru, za dohodek, dosežen 1. januarja ali po njem v koledarskem letu po letu, v katerem začne veljati konvencija;

b) v zvezi z drugimi davki od dohodka in davki od premoženja za davke, obračunane za katero koli davčno leto, ki se začne 1. januarja ali po njem v koledarskem letu po letu, v katerem začne veljati konvencija.

30. ČLEN**PRENEHANJE VELJAVNOSTI**

Ta konvencija velja, dokler je država pogodbenica ne odpove. Vsaka država pogodbenica lahko odpove konvencijo po diplomatski poti s pisnim obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta po petih letih od dneva začetka veljavnosti konvencije. V tem primeru se konvencija preneha uporabljati:

a) v zvezi z davki, odtegnjenimi pri viru, za dohodek, dosežen 1. januarja ali po njem v koledarskem letu po letu, v katerem je dano obvestilo o odpovedi;

b) v zvezi z drugimi davki od dohodka in davki od premoženja za davke, obračunane za katero koli davčno leto, ki se začne 1. januarja ali po njem v koledarskem letu po letu, v katerem je dano obvestilo o odpovedi.

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

SESTAVLJENO v dveh izvornikih v Ljubljani 9. junija 2011 v slovenskem, azerbajdžanskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri razlikah med besedili prevlada angleško besedilo.

Za
Vlado
Republike Slovenije
Darja Radić l.r.

Za
Vlado
Republike Azerbajdžan
Elmar Mammadyarov l.r.

ARTICLE 29**ENTRY INTO FORCE**

1. The Contracting States shall notify each other in writing, through diplomatic channels, that the procedures required by their laws for the entry into force of this Convention have been satisfied. The Convention shall enter into force on the date of receipt of the last notification.

2. This Convention shall be applicable:

a) in respect of taxes withheld at source, to income derived on or after 1 January of the calendar year next following the year in which the Convention enters into force;

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

ARTICLE 30**TERMINATION**

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

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

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

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Convention.

DONE in duplicate at Ljubljana this 9th day of June 2011, in the Slovenian, Azerbaijani and English languages, all texts being equally authentic. In case of divergence between the texts, the English text shall prevail.

For the
Government of the
Republic of Slovenia
Darja Radić (s)

For the
Government of the
Republic of Azerbaijan
Elmar Mammadyarov (s)

**PROTOKOL
H KONVENCIJI
MED
VLADO REPUBLIKE SLOVENIJE
IN VLADO REPUBLIKE AZERBAJDŽAN
O IZOGIBANJU DVOJNEGA OBDAVČEVANJA
IN PREPREČEVANJU DAVČNIH UTAJ
V ZVEZI Z DAVKI OD DOHODKA
IN PREMOŽENJA**

Ob podpisu Konvencije med Vlado Republike Slovenije in Vlado Republike Azerbajdžan o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja sta se podpisana sporazumela o tej določbi, ki je sestavni del konvencije:

K petemu odstavku 26. člena

Razume se, da se določbe petega odstavka 26. člena v državah pogodbenicah uporabljajo v obsegu, kot ga dopušča njuno domače pravo.

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

SESTAVLJENO v dveh izvornikih v Ljubljani 9. junija 2011 v slovenskem, azerbajdžanskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri razlikah med besedili prevlada angleško besedilo.

Za
Vlado
Republike Slovenije
Darja Radić l.r.

Za
Vlado
Republike Azerbajdžan
Elmar Mammadyarov l.r.

**PROTOKOL
TO THE CONVENTION
BETWEEN
THE GOVERNMENT OF THE REPUBLIC
OF SLOVENIA AND THE GOVERNMENT
OF THE REPUBLIC OF AZERBAIJAN
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME
AND ON CAPITAL**

At the moment of signing of the Convention between the Government of the Republic of Slovenia and the Government of the Republic of Azerbaijan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, the undersigned have agreed on the following provision which will be considered as integral part of the Convention:

Ad Article 26 paragraph 5

It is understood that the provisions of paragraph 5 of Article 26 shall be applicable in the Contracting States to the extent that their domestic laws so permit.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Protocol.

DONE in duplicate at Ljubljana this 9th day of June 2011, in the Slovenian, Azerbaijani and English languages, all texts being equally authentic. In case of divergence between the texts, the English text shall prevail.

For the
Government of the
Republic of Slovenia
Darja Radić (s)

For the
Government of the
Republic of Azerbaijan
Elmar Mammadyarov (s)

3. člen

Za izvajanje konvencije s protokolom skrbi ministrstvo, pristojno za finance.

4. člen

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

Št. 432-01/12-11/11
Ljubljana, dne 11. julija 2012
EPA 445-VI

Državni zbor
Republike Slovenije
dr. Gregor Virant l.r.
Predsednik

46. Zakon o ratifikaciji Sporazuma o sodelovanju v izobraževanju med Vlado Republike Slovenije in Vlado Federativne republike Brazilije (BBRSI)

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

U K A Z**o razglasitvi Zakona o ratifikaciji Sporazuma o sodelovanju v izobraževanju med Vlado Republike Slovenije in Vlado Federativne republike Brazilije (BBRSI)**

Razglašam Zakon o ratifikaciji Sporazuma o sodelovanju v izobraževanju med Vlado Republike Slovenije in Vlado Federativne republike Brazilije (BBRSI), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 11. julija 2012.

Št. 003-02-6/2012-8
Ljubljana, dne 19. julija 2012

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N**O RATIFIKACIJI SPORAZUMA O SODELOVANJU V IZOBRAŽEVANJU MED VLADO REPUBLIKE SLOVENIJE IN VLADO FEDERATIVNE REPUBLIKE BRAZILIJE (BBRSI)**

1. člen

Ratificira se Sporazum o sodelovanju v izobraževanju med Vlado Republike Slovenije in Vlado Federativne republike Brazilije, podpisan v Ljubljani 20. septembra 2011.

2. člen

Besedilo sporazuma se v izvirniku v slovenskem in angleškem jeziku glasi*:

S P O R A Z U M**O SODELOVANJU V IZOBRAŽEVANJU
MED VLADO REPUBLIKE SLOVENIJE
IN VLADO FEDERATIVNE REPUBLIKE
BRAZILIJE**

Vlada Republike Slovenije
in
Vlada Federativne republike Brazilije
(v nadaljevanju: pogodbenici) sta se
v želji razvijati in krepiti prijateljske vezi med državama
ter
v želji poglobiti medsebojne odnose v izobraževanju
dogovorili:

I. člen

1. Pogodbenici spodbujata in uresničujeta sodelovanje v izobraževanju ter v ta namen:

- a) spodbujata in omogočata tesnejše stike med svojimi izobraževalnimi ustanovami in strokovnjaki;
- b) spodbujata sodelovanje svojih državljanov v programih usposabljanja in pri študijskih obiskih, ki jih ponujata pogodbenici;
- c) spodbujata oblikovanje partnerstev in mrež, v katere so vključene njune visokošolske ustanove, raziskovalni in tehnološki centri ter vladne agencije;
- d) si prizadevata vzpostaviti stike, sodelovanje in izmenjavo profesorjev, raziskovalcev, predavateljev, študentov in upravljavcev v izobraževanju iz obeh držav, tudi s pošiljanjem akademskih delegacij in ponujanjem štipendij;
- e) spodbujata sodelovanje predstavnikov pogodbenic na kongresih, seminarjih, simpozijih in drugih akademskih in znanstvenih dogodkih, ki jih ponujata pogodbenici, ter skupno prirejanje dogodkov;

A G R E E M E N T**FOR COOPERATION IN THE FIELD
OF EDUCATION BETWEEN
THE GOVERNMENT OF THE REPUBLIC
OF SLOVENIA AND THE GOVERNMENT
OF THE FEDERATIVE REPUBLIC OF BRAZIL**

The Government of the Republic of Slovenia
and
The Government of the Federative Republic of Brazil
(hereinafter referred to as "Parties"),
Guided by their desire to develop and strengthen the
existing ties of friendship between the two countries;
Desiring to deepen their relations in the field of education,
Have agreed as follows:

Article I

1. The Parties shall promote and implement the cooperation in the field of education and to this aim, shall:

- a) Encourage and facilitate closer ties between their respective educational institutions and professionals;
- b) Encourage participation of their nationals in training courses and studies tours offered by the other Party;
- c) Encourage the establishment of partnerships and networks involving higher education institutions, research and technology centres, and governmental agencies;
- d) Seek to develop contacts, cooperation and exchange between professors, researchers, readers, students and educational administrators from both countries, including by sending academic missions and offering scholarships;
- e) Promote the participation of representatives of each Party in congresses, seminars, symposia and other academic and scientific events offered by the other Party, as well as the joint organization of events;

* Besedilo sporazuma v portugalskem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

f) spodbujata sodelovanje brazilskih državljanov v programu Mladi raziskovalci, ki ga vodi Agencija za raziskovalno dejavnost Republike Slovenije;

g) spodbujata sodelovanje brazilskih državljanov v programih Mednarodnega centra za promocijo podjetij (ICPE) v Ljubljani;

h) spodbujata izmenjavo informacij in obiskov strokovnjakov s področja izobraževalnih sistemov, statistike in politike, izobraževalnih programov, metod poučevanja, znanstvene, pedagoške in metodološke literature, pa tudi izmenjavo izkušenj in posebnih programov;

i) spodbujata izmenjavo informacij o potrjevanju in priznavanju diplom in akademskih stopenj, da bi olajšali primerjavo in ocenjevanje primerljivosti osnovno- in srednješolskih spričeval ter tudi tehničnih, znanstvenih, univerzitetnih in tehnoloških študijskih ravni, spričeval in diplom;

j) spodbujata skupne znanstvene in izobraževalne publikacije;

k) spodbujata skupno razvijanje izobraževalnega gradiva.

II. člen

1. Pogodbenici kot prednostna določata ta področja dvostranskega sodelovanja:

a) brazilske študije v Sloveniji in slovenske študije v Braziliji, tudi poučevanje slovenščine in portugalske;

b) dodiplomski in podiplomski študij, tudi skupne študijske programe, somentorstvo disertacij in postopkov za magistrske, doktorske – tudi raziskovalno delo v državi druge pogodbenice – in podoktorske programe;

c) uporabo informacijskih in telekomunikacijskih tehnologij v izobraževanju;

d) tehnično in strokovno izobraževanje ter usposabljanje;

e) vodenje šol, tudi usposabljanje učiteljev in izmenjavo informacij o izobraževalnih standardih, presojanju in kazalnikih;

f) socialno vključenost v izobraževanje, predvsem s programi za otroke iz socialno in gmotno prikrajšanih okolij ter opismenjevanje mladih in odraslih, stalno izobraževanje ter izobraževanje na podeželju in okoljsko izobraževanje;

g) inovacije in dobre prakse v izobraževanju.

2. Pogodbenici se lahko dogovorita in določita področja skupnih dejavnosti, ki niso navedena v tem členu.

III. člen

1. Za izvajanje tega sporazuma se ustanovi brazilsko-slovenska komisija za izobraževanje. Komisija se sestaja izmenično v Braziliji in Sloveniji ter podrobno opredeli programe sodelovanja, tudi njihove finančne vidike.

2. Datum, kraj in dnevni red sestankov brazilsko-slovenske komisije za izobraževanje se določijo po diplomatski poti.

3. O izvajanju programov sodelovanja, ki jih odobri komisija, se pogodbenici dogovorita po diplomatski poti.

IV. člen

1. Pogodbenici v skladu s svojimi notranjimi zakoni in drugimi predpisi zagotovita ustrezna pravna sredstva za učinkovito varovanje pravic intelektualne lastnine za vse gradivo, pridobljeno po tem sporazumu.

2. Pravice intelektualne lastnine, ki izhajajo iz skupnih dejavnosti, se opredelijo na podlagi skupno dogovorjenih pogojev ter posebej določijo v pogodbah in sporazumih.

3. Pogodbenici ne dasta nobene informacije, pridobljene pri izvajanju tega sporazuma, tretji strani brez predhodnega pisnega soglasja druge pogodbenice.

f) Promote participation of Brazilian citizens in the Young Researchers Programme managed by the Slovenian Research Agency;

g) Promote participation of Brazilian citizens in the programmes of the International Centre for Promotion of Enterprises (ICPE) in Ljubljana;

h) Encourage the exchange of information and visits of specialists in educational systems, statistics and policies, curriculum, teaching methods, scientific, pedagogical and methodological literature, as well as experiences and specific programmes;

i) Encourage the exchange of information on certification and recognition of diplomas and academic degrees, in order to facilitate the comparison and the evaluation of equivalence among certificates from elementary and secondary education, as well as among technical, scientific, university and technological degrees, certificates and diplomas;

j) Promote joint scientific and educational publications;

k) Promote the joint development of educational material.

Article II

1. The Parties identify the following areas as priorities in bilateral cooperation:

a) Brazilian studies in Slovenia and Slovenian studies in Brazil, including the teaching of Portuguese and Slovene;

b) Graduate and postgraduate studies, including joint degrees, co-supervision of theses and procedures for master, doctoral – also in the sandwich modality – and post-doctoral programmes;

c) Information and communication technologies applied to education;

d) Educational and vocational and technical training;

e) School management, including teacher training and exchange of information about educational standards, assessment and indicators;

f) Social inclusion in education, particularly through programmes focused on children from disadvantaged social-economic contexts, as well as youth and adult literacy, continued education, and rural and environmental education;

g) Innovation and good practices in education.

2. The Parties may agree to identify new areas for joint activities other than those mentioned in this Article.

Article III

1. For purposes of implementing this Agreement, a Brazilian-Slovene Educational Commission shall be created. This Commission shall meet alternately in Brazil and Slovenia to define the details of cooperation programmes, including their financial aspects.

2. The date, place and agenda for the meetings of the Brazilian-Slovene Education Commission shall be established through diplomatic channels.

3. The execution of cooperation programmes agreed upon by the Commission shall be negotiated by the Parties through diplomatic channels.

Article IV

1. The Parties shall provide appropriate legal means for effective protection of intellectual property rights of all materials obtained under this instrument, in accordance with their respective national laws and regulations.

2. The intellectual property rights obtained as a result of joint activities shall be determined by mutually agreed conditions and laid down in contracts and agreements separately.

3. Neither Party shall transmit any information obtained within the implementation of this agreement to any third party without the prior written consent of the other Party.

V. člen

1. Pogodbenici skupaj določita pogoje za plačilo stroškov dejavnosti po tem sporazumu. Izvajanje dejavnosti je odvisno od razpoložljivosti ustreznih finančnih virov v vsaki od držav.

2. Vse dejavnosti po tem sporazumu morajo biti v skladu z zakoni in drugimi predpisi države, v kateri se izvajajo.

VI. člen

1. Nesporazume, povezane z razlago ali izvajanjem tega sporazuma, pogodbenici rešujeta z neposrednimi pogajanjmi po diplomatski poti.

2. Ta sporazum se lahko spremeni s pisnim soglasjem pogodbenic po diplomatski poti. Spremembe začnejo veljati v skladu s tretjim odstavkom tega člena.

3. Ta sporazum začne veljati z dnem drugega uradnega obvestila, s katerim pogodbenica po diplomatski poti obvesti drugo, da so izpolnjeni pravni pogoji za začetek njegove veljavnosti.

4. Sporazum velja pet (5) let in se samodejno podaljšuje za obdobja petih (5) let, razen če ena od pogodbenic pisno po diplomatski poti ne obvesti druge o svoji odločitvi, da ga odpove. Odpoved sporazuma ne vpliva na dokončanje projektov in programov, ki se izvajajo, razen če se pogodbenici ne dogovorita drugače.

Podpisano v Ljubljani dne 20. septembra 2011 v dveh izvirmikih v slovenskem, portugalskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Ob različni razlagi prevlada angleško besedilo.

ZA
VLADO
REPUBLIKE SLOVENIJE

Igor Lukšič l.r.

ZA
VLADO
FEDERATIVNE
REPUBLIKE BRAZILIJE

Hadil da Rocha Vianna l.r.

FOR THE GOVERNMENT
OF THE
REPUBLIC OF SLOVENIA

Igor Lukšič (s)

FOR THE GOVERNMENT
OF THE
FEDERATIVE REPUBLIC
OF BRAZIL

Hadil da Rocha Vianna (s)

3. člen

Za izvajanje sporazuma skrbi ministrstvo, pristojno za izobraževanje.

4. člen

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

Št. 610-02/11-3/12

Ljubljana, dne 11. julija 2012

EPA 2087-V

Državni zbor
Republike Slovenije
dr. Gregor Virant l.r.
Predsednik

47. Uredba o ratifikaciji Protokola med Vlado Republike Slovenije in Vlado Ruske federacije o izvajanju Sporazuma med Evropsko skupnostjo in Rusko federacijo o ponovnem sprejemu z dne 25. maja 2006

Na podlagi petega odstavka 75. člena Zakona o zunanjih zadevah (Uradni list RS, št. 113/03 – uradno prečiščeno besedilo, 20/06 – ZNOMCMO, 76/08, 108/09, 80/10 – ZUTD) izdaja Vlada Republike Slovenije

U R E D B O**O RATIFIKACIJI PROTOKOLA MED VLADO REPUBLIKE SLOVENIJE IN VLADO RUSKE FEDERACIJE O IZVAJANJU SPORAZUMA MED EVROPSKO SKUPNOSTJO IN RUSKO FEDERACIJO O PONOVNEM SPREJEMU Z DNE 25. MAJA 2006****1. člen**

Ratificira se Protokol med Vlado Republike Slovenije in Vlado Ruske federacije o izvajanju Sporazuma med Evropsko skupnostjo in Rusko federacijo o ponovnem sprejemu z dne 25. maja 2006, podpisan v Moskvi 25. aprila 2012.

2. člen

Besedilo sporazuma se v izvirniku v slovenskem in angleškem jeziku glasi*:

PROTOKOL

**med Vlado
Republike Slovenije in Vlado Ruske federacije
o izvajanju Sporazuma
med Evropsko skupnostjo
in Rusko federacijo
o ponovnem sprejemu
z dne 25. maja 2006**

Vlada Republike Slovenije in Vlada Ruske federacije (v nadaljnjem besedilu: pogodbenici)

sta se v želji po vzpostavitvi potrebnih pogojev, ki jih določa 20. člen Sporazuma med Evropsko skupnostjo in Rusko federacijo o ponovnem sprejemu z dne 25. maja 2006 (v nadaljnjem besedilu: sporazum), dogovorili:

1. člen**Pristojni organi**

1. Pristojni organi, odgovorni za izvajanje tega sporazuma, so:

za slovensko pogodbenico:

osrednji pristojni organ: Ministrstvo za notranje zadeve Republike Slovenije, Policija;

za rusko pogodbenico:

osrednji pristojni organ: Zvezni urad za migracije;

pristojna organa: Ministrstvo za zunanje zadeve Ruske federacije in Zvezna varnostna služba Ruske federacije.

2. Pogodbenici se po diplomatski poti nemudoma uradno obvestita o spremembah seznama pristojnih organov iz prvega odstavka tega člena.

3. Pri izvajanju določb sporazuma in tega protokola osrednja pristojna organa sodelujeta neposredno, razen v primerih, določenih s tem protokolom.

4. Za izvajanje tega protokola se osrednja pristojna organa v 30 koledarskih dneh od datuma podpisa protokola po diplomatski poti uradno obvestita o svojih podatkih za stike.

5. Osrednja pristojna organa se nemudoma neposredno uradno obvestita o spremembah podatkov za stike.

IMPLEMENTING PROTOCOL

**between the Government
of the Republic of Slovenia
and the Government of the Russian Federation
on the implementation of the Agreement
between the European Community
and the Russian Federation on readmission
of 25 May 2006**

The Government of the Republic of Slovenia and the Government of the Russian Federation (hereinafter referred to as the Parties),

wishing to establish the necessary conditions as provided for in Article 20 of the Agreement between the European Community and the Russian Federation on readmission of 25 May 2006 (hereinafter referred to as the Agreement),

have agreed as follows:

Article 1**Competent authorities**

1. The competent authorities responsible for the implementation of the provisions of the Agreement are:

for the Slovenian Party:

Ministry of the Interior of the Republic of Slovenia, Police – central competent authority;

for the Russian Party:

Federal Migration Service – central competent authority;

Ministry of Foreign Affairs of the Russian Federation;

Federal Security Service of the Russian Federation.

2. The Parties shall immediately notify each other through diplomatic channels of any changes in the competent authorities referred to in paragraph 1 of this Article.

3. For the implementation of the provisions of the Agreement and of this Implementing Protocol the central competent authorities shall directly co-operate with each other except in cases foreseen in this Implementing Protocol.

4. For the implementation of this Implementing Protocol the central competent authorities shall notify each other through diplomatic channels of their contact data within 30 calendar days from the date of the signing of this Implementing Protocol.

5. Further the central competent authorities shall notify each other immediately directly of any changes in the contact data.

* Besedilo sporazuma v ruskem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

2. člen**Predložitev prošnje za ponovni sprejem
in odgovor nanjo**

1. Prošnjo za ponovni sprejem, ki je pripravljena skladno s 7. členom sporazuma, osrednji pristojni organ pogodbenice prosilke po pošti ali kurirski službi pošlje osrednjemu pristojnemu organu zaprosene pogodbenice v roku iz prvega odstavka 11. člena sporazuma.

2. Odgovor na prošnjo za ponovni sprejem osrednji pristojni organ zaprosene pogodbenice po pošti ali kurirski službi pošlje osrednjemu pristojnemu organu pogodbenice prosilke v roku, določenem v drugem odstavku 11. člena sporazuma, in poleg tega po potrebi uporabi še tehnična sredstva za pošiljanje besedil.

3. Osebni podatki, ki jih v prošnji za ponovni sprejem navede pogodbenica prosilka, se pošiljajo skladno z določbami 17. člena sporazuma.

3. člen**Drugi dokumenti**

1. Če pogodbenica prosilka meni, da utegnejo biti za ugotavljanje državljanstva osebe, ki naj bi bila ponovno sprejeta, ali za utemeljitev ponovnega sprejema državljanov tretjih držav ali oseb brez državljanstva bistveni tudi drugi dokumenti, ki niso navedeni v prilogah 2 do 5 sporazuma, jih lahko zaproseni pogodbenici predloži skupaj s prošnjo za ponovni sprejem.

2. Zaprošena pogodbenica ima pravico do odločitve, ali bo pri obravnavanju prošnje za ponovni sprejem upoštevala dokumente iz prvega odstavka tega člena.

4. člen**Razgovor**

1. Če pogodbenica prosilka ne more predložiti nobenega dokumenta iz prilog 2 in 3 sporazuma, zaprosena pogodbenica z osebo, ki naj bi bila ponovno sprejeta, opravi razgovor na podlagi zaprosila iz odstavka D prošnje za ponovni sprejem.

2. Za izvedbo razgovora so odgovorni predvsem predstavniki osrednjega pristojnega organa na diplomatskem predstavništvu ali konzulatu države zaprosene pogodbenice v državi pogodbenice prosilke.

3. Ob odsotnosti predstavnikov osrednjega pristojnega organa iz drugega odstavka tega člena razgovor opravijo uradniki diplomatskega predstavništva ali konzulata države zaprosene pogodbenice v državi pogodbenice prosilke.

4. Osrednji pristojni organ zaprosene pogodbenice o ugotovitvah razgovora obvesti osrednji pristojni organ pogodbenice prosilke v najkrajšem mogočem času, najpozneje pa v 10 kalendarških dneh od datuma prejema prošnje za ponovni sprejem, ki vsebuje zaprosilo za razgovor. Roki za odgovor na prošnjo za ponovni sprejem začnejo teči z dnem, ko osrednji pristojni organ zaprosene pogodbenice pošlje obvestilo o ugotovitvah razgovora.

5. Če z razgovorom ni mogoče dokazati, da ima oseba, ki naj bi bila ponovno sprejeta, državljanstvo zaprosene pogodbenice, ali če pogodbenica prosilka ne zagotovi prisotnosti te osebe na razgovoru, prošnjo za ponovni sprejem, ki vsebuje zaprosilo za razgovor, osrednji pristojni organ zaprosene pogodbenice zavrne.

5. člen**Predložitev vloge za tranzit in odgovor nanjo**

1. Vlogo za tranzit, ki je pripravljena skladno s prvim odstavkom 15. člena sporazuma, osrednji pristojni organ pogodbenice prosilke po pošti ali kurirski službi pošlje osrednjemu pristojnemu organu zaprosene pogodbenice najpozneje v 15 delovnih dneh pred načrtovanim tranzitom.

Article 2**Submission of the readmission application
and reply thereto**

1. A readmission application, compiled pursuant to Article 7 of the Agreement, shall be submitted by the central competent authority of the requesting Party to the central competent authority of the requested Party by mail or courier within the time limits foreseen in Article 11 (1) of the Agreement.

2. A reply to the readmission application shall be sent by the central competent authority of the requested Party to the central competent authority of the requesting Party by mail or courier and using additionally, if necessary, technical means of information transmission in time limits indicated in the Article 11 (2) of the Agreement.

3. Personal data included by the requesting Party into the readmission application shall be transmitted in accordance with the provisions of the Article 17 of the Agreement.

Article 3**Other documents**

1. If the requesting Party considers that other documents which are not listed in Annexes 2 to 5 to the Agreement may be essential for establishing the nationality of the person to be readmitted or for establishing grounds for readmission of the third country nationals or stateless persons, then such documents may be also attached to the readmission application submitted to the requested Party.

2. The requested Party has the right to decide whether the documents referred to in paragraph 1 of this Article may be taken into consideration in processing the readmission application.

Article 4**Interview**

1. In case the requesting Party is unable to present any of documents listed in Annexes 2 and 3 to the Agreement, the requested Party shall interview the person to be readmitted upon the request indicated in paragraph "D" of the readmission application.

2. The primary duty for interview implementation is laid on the representatives of the central competent authority at the diplomatic mission or consular post of the State of the requested Party in the State of the requesting Party.

3. In the absence of representatives of the central competent authority referred to in paragraph 2 of this Article the interview shall be carried out by the officials of the diplomatic mission or consular post of the State of the requested Party in the State of the requesting Party.

4. The central competent authority of the requested Party shall inform the central competent authority of the requesting Party of the results of the interview within the shortest possible time period, but not later than 10 calendar days from the date of the receipt of the readmission application containing the request for an interview. The time limits for the reply to the readmission application shall begin to run on the date of sending information of the interview results by the central competent authority of the requested Party.

5. If the nationality of the State of the requested Party of the person to be readmitted is not proved by the result of the interview or a person has not been presented for the interview by the requesting Party, the readmission application containing the request for an interview is refused by the central competent authority of the requested Party.

Article 5**Submission of the transit application and reply thereto**

1. A transit application compiled pursuant to Article 15 (1) of the Agreement shall be submitted by the central competent authority of the requesting Party to the central competent authority of the requested Party by mail or courier not later than 15 working days before the planned transit.

2. Odgovor na vlogo za tranzit osrednji pristojni organ zaprosene pogodbenice po pošti ali kurirski službi pošlje osrednjemu pristojnemu organu pogodbenice prosilke v 10 delovnih dneh od prejema vloge za tranzit in poleg tega po potrebi uporabi še tehnična sredstva za pošiljanje besedil.

6. člen

Postopek ponovnega sprejema in tranzita

1. Za namene ponovnega sprejema in tranzita pogodbenici določita te mejne prehode:

za slovensko pogodbenico: vsa mednarodna letališča na območju Republike Slovenije;

za rusko pogodbenico: vsa mednarodna letališča na območju Ruske federacije.

Osrednja pristojna organa se lahko za vsak posamezen primer dogovorita o uporabi drugih mejnih prehodov.

2. Osrednji pristojni organ pogodbenice prosilke najpozneje v 5 delovnih dneh pred načrtovanim tranzitom osebe, ki naj bi bila ponovno sprejeta, osrednji pristojni organ zaprosene pogodbenice obvesti o datumu, času, mejnem prehodu in drugih podrobnostih tranzita.

Osrednji pristojni organ zaprosene pogodbenice v najkrajšem mogočem času, najpozneje pa v 4 delovnih dneh od datuma prejema podatkov o tranzitu osebe, ki naj bi bila ponovno sprejeta, osrednji pristojni organ pogodbenice prosilke uradno obvesti o sprejemljivosti predlaganega načina tranzita.

Če način tranzita, ki ga je predlagal osrednji pristojni organ pogodbenice prosilke, za osrednji pristojni organ zaprosene pogodbenice ni sprejemljiv, se je treba čim prej dogovoriti o drugačnem načinu tranzita.

3. O podrobnostih organizacije tranzita se osrednja pristojna organa pogodbenic dogovorita v vsakem posameznem primeru.

7. člen

Spremljanje oseb med prevozom zaradi ponovnega sprejema ali tranzita

1. Če je za prevoz osebe potrebno spremstvo, osrednji pristojni organ pogodbenice prosilke vnaprej sporoči ime in priimek spremljevalcev, vrsto, številko in datum izdaje njihovih potnih listov, številko leta ter datum in čas prihoda in odhoda.

2. Če se podatki o spremstvu iz prvega odstavka tega člena spremenijo, osrednji pristojni organ pogodbenice prosilke o tem takoj pisno uradno obvesti osrednji pristojni organ zaprosene pogodbenice.

3. Spremljevalci morajo med bivanjem na območju države zaprosene pogodbenice ravnati skladno z njeno zakonodajo.

4. Spremljevalci nosijo civilna oblačila ter imajo pri sebi veljavni potni list in dokumente, ki dovoljujejo ponovni sprejem ali tranzit.

5. Spremljevalci ne smejo nositi orožja in drugih predmetov, za katere na območju države zaprosene pogodbenice veljajo omejitve ali ki niso dovoljeni.

6. Pristojni organi pogodbenic sodelujejo pri vseh vprašanih, povezanih s prisotnostjo spremljevalcev na območju države zaprosene pogodbenice. Pristojni organi zaprosene pogodbenice spremljevalcem po potrebi zagotovijo mogočo pomoč.

2. A reply to the transit application shall be sent by the central competent authority of the requested Party to the central competent authority of the requesting Party by mail or courier and using additionally, if necessary, technical means of information transmission, within 10 working days from the date of the receipt of the transit application.

Article 6

Readmission and Transit Procedure

1. For the purposes of readmission and transit the Parties identify the following border crossing points:

the Slovenian Party: in all international airports within the territory of the Republic of Slovenia;

the Russian Party: in all international airports within the territory of the Russian Federation.

The central competent authorities may agree on the use of other border crossing points on a case-by-case basis.

2. The central competent authority of the Requesting Party not later than 5 working days before the supposed date of transfer of the person to be readmitted informs the central competent authority of the Requested Party on date, time, border crossing point and others modalities of the transfer.

The central competent authority of Requested Party within the shortest possible time period but not later than 4 working days from the date of receiving the information on the transfer of the person to be readmitted, notifies the central competent authority of the Requesting Party on an acceptability of the transfer modalities.

In case if the transfer modalities proposed by the central competent authority of the Requesting Party are not acceptable for the central competent authority of the Requested Party, other modalities for the transfer shall be arranged as soon as possible.

3. The modalities for the organization of the transit shall be agreed by the central competent authorities of the Parties in each particular case.

Article 7

Escorting persons in transfer due to readmission or transit

1. In case the escort is needed to transfer a person the central competent authority of the requesting Party shall inform beforehand of the first names and surnames of the escorts, types, numbers and dates of issue of their passports, flight numbers, date and time of arrival and departure.

2. In case there are any changes in the data concerning the escort referred to in paragraph 1 of this Article the central competent authority of the requesting Party shall immediately notify the central competent authority of the requested Party of these changes in written form.

3. The escorts during their stay in the territory of the State of the requested Party shall be obliged to obey the legislation of the State of the requested Party.

4. The escorts shall be in civilian clothes and carry valid passports as well as documents of approval for readmission or transit.

5. The escorts shall not bear weapons and any other items which are not allowed or restricted in the territory of the State of the requested Party.

6. The competent authorities of the Parties shall co-operate with each other on all the issues related to the presence of the escorts in the territory of the State of the requested Party. The competent authorities of the requested Party shall provide the escorts with possible assistance if necessary.

8. člen**Stroški**

Stroške zaprošene pogodbenice, ki nastanejo zaradi ponovnega sprejema ali tranzita, skladno s 16. členom sporazuma krije pogodbenica prosilka in jih poravna v evrih v 30 kalendarjskih dneh po predložitvi dokazil o stroških.

9. člen**Jezik**

1. Za izvajanje tega protokola dokumente iz 3. in 7. člena protokola ter oddelkov III in IV sporazuma pripravi:

- slovenska pogodbenica v slovenskem jeziku s priloženim prevodom v angleški ali ruski jezik;
- ruska pogodbenica v ruskem jeziku s priloženim prevodom v angleški ali slovenski jezik.

2. Posvetovanja med pristojnimi organi o izvajanju protokola so v angleškem jeziku, razen če se pogodbenici za vsak posamezen primer ne dogovorita drugače.

10. člen**Spremembe**

Ta protokol lahko pogodbenici spremenita z medsebojnim soglasjem.

11. člen**Začetek in prenehanje veljavnosti**

1. Pogodbenici se po diplomatski poti uradno pisno obvestita o končanih notranjih postopkih, potrebnih za začetek veljavnosti tega protokola.

2. Protokol začne veljati, kot določi Skupni odbor za ponovni sprejem po prejemu uradnega obvestila skladno z drugim odstavkom 20. člena sporazuma, da sta pogodbenici končali vse potrebne notranje postopke za začetek veljavnosti protokola.

3. Protokol preneha veljati hkrati s sporazumom.

Sestavljeno v Moskvi dne 25. aprila 2012 v dveh izvornikih v slovenskem, ruskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna.

Pri razlikah v razlagi tega protokola prevlada angleško besedilo.

Za Vlado
Republike Slovenije
Ada Filip Slivnik l.r.

Za Vlado
Ruske federacije
Nikolaj Smorodin l.r.

For the Government of the
Republic of Slovenia
Ada Filip Slivnik (s)

For the Government of the
Russian Federation
Nikolay Smorodin (s)

3. člen

Za izvajanje protokola skrbi ministrstvo, pristojno za notranje zadeve.

4. člen

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

Št. 00724-27/2012/4
Ljubljana, dne 19. julija 2012
EVA 2012-1811-0055

Vlada Republike Slovenije

Janez Janša l.r.
Predsednik

Article 8**Costs**

The readmission or transit costs incurred by the requested Party shall be borne by the requesting Party in accordance with Article 16 of the Agreement and reimbursed in euro within 30 calendar days upon the submission of the documents proving the costs.

Article 9**Language**

1. For the implementation of the provisions of this Implementing Protocol the documents provided for in Article 3 and 7 of this Implementing Protocol, as well as in sections III and IV of the Agreement shall be drawn up by:

- the Slovenian Party – in the Slovenian language with translation into the English or Russian language appended;
- the Russian Party – in the Russian language with translation into the English or Slovenian language appended.

2. Consultations between the competent authorities concerning the implementation of this Implementing Protocol shall be held in English language, unless the Parties agree otherwise on a case-by-case basis.

Article 10**Amendments**

The Parties may amend this Implementing Protocol upon mutual agreement.

Article 11**Entry into force and termination**

1. The Parties shall notify each other through diplomatic channels in written form that their internal procedures required for entry into force of this Implementing Protocol have been completed.

2. This Implementing Protocol enters into force in order specified by the Joint Readmission Committee after the notification to the Joint Readmission Committee in accordance with the Article 20 (2) of the Agreement about this Implementing Protocol and that both Parties have completed their respective internal procedures necessary therefore.

3. The Implementing Protocol shall be terminated at the same time as the Agreement.

Done at Moscow, on 25 April 2012, in duplicate, each in Slovenian, Russian and English language, all texts being equally authentic.

In case of differences in the interpretation of this Implementing Protocol, the English text shall be used.

Obvestila o začetku oziroma prenehanju veljavnosti mednarodnih pogodb

48. Obvestilo o začetku veljavnosti Sporazuma o razvojnem sodelovanju med Vlado Republike Slovenije in Vlado Republike Zelenortske otoki

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list RS, št. 113/03 – uradno prečiščeno besedilo, 20/06 – ZNOMCMO, 76/08, 108/09 in 80/10 – ZUTD) Ministrstvo za zunanje zadeve

s p o r o č a,

da je dne 2. julija 2012 začel veljati Sporazum o razvojnem sodelovanju med Vlado Republike Slovenije in Vlado Republike Zelenortske otoki, podpisan v New Yorku 22. septembra 2010 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 4/11 (Uradni list Republike Slovenije, št. 33/11).

Ljubljana, dne 5. julija 2012

Ministrstvo za zunanje zadeve
Republike Slovenije

49. Obvestilo o začetku veljavnosti Dodatnega protokola k Evropski listini lokalne samouprave o pravici do sodelovanja pri vprašanih lokalne oblasti

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list RS, št. 113/03 – uradno prečiščeno besedilo, 20/06 – ZNOMCMO, 76/08, 108/09 in 80/10 – ZUTD) Ministrstvo za zunanje zadeve

s p o r o č a,

da je 1. junija 2012 začel veljati Dodatni protokol k Evropski listini lokalne samouprave o pravici do sodelovanja pri vprašanih lokalne oblasti, sestavljen v Utrechtu 16. 11. 2009 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 2/11 (Uradni list Republike Slovenije, št. 16/11).

Ljubljana, dne 17. julija 2012

Ministrstvo za zunanje zadeve
Republike Slovenije

POPRAVKI

- 50. Popravek Obvestila o začetku Konvencije Mednarodne organizacije dela št. 144 o tristranskih posvetovanjih za spodbujanje izvajanja mednarodnih delovnih standardov**

Na podlagi četrtega odstavka 11. člena Zakona o Uradnem listu Republike Slovenije (Uradni list RS, št. 112/05 – uradno prečiščeno besedilo, 102/07, 109/09, 38/10 – ZUKN) uredništvo Uradnega lista RS objavlja

POPRAVEK

Obvestila o začetku Konvencije Mednarodne organizacije dela št. 144 o tristranskih posvetovanjih za spodbujanje izvajanja mednarodnih delovnih standardov

Pri pripravi vsebinskega kazala je v Uradnem listu RS – Mednarodne pogodbe, št. 7/12 (Uradni list RS, št. 52/12), z dne 9. 7. 2012 prišlo do napake pri naslovu akta 43, ki se pravilno glasi: »Obvestilo o začetku veljavnosti Konvencije Mednarodne organizacije dela št. 144 o tristranskih posvetovanjih za spodbujanje izvajanja mednarodnih delovnih standardov«.

Popravek je izveden v spletni podatkovni bazi HTML.

Št. 6/2012
Ljubljana, dne 20. julija 2012

Uredništvo

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