

38. Zakon o ratifikaciji Mednarodne konvencije o zaščiti vseh oseb pred prisilnim izginotjem (MKZVOPI)

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 Mednarodne konvencije o zaščiti vseh oseb pred prisilnim izginotjem (MKZVOPI)

Razglašam Zakon o ratifikaciji Mednarodne konvencije o zaščiti vseh oseb pred prisilnim izginotjem (MKZVOPI), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 26. oktobra 2021.

Št. 003-02-3/2021-251

Ljubljana, dne 3. novembra 2021

Borut Pahor
predsednik
Republike Slovenije

Z A K O N

O RATIFIKACIJI MEDNARODNE KONVENCIJE O ZAŠČITI VSEH OSEB PRED PRISILNIM IZGINOTJEM (MKZVOPI)

1. člen

Ratificira se Mednarodna konvencija o zaščiti vseh oseb pred prisilnim izginotjem, sprejeta v New Yorku 20. decembra 2006.

2. člen

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

**INTERNATIONAL CONVENTION
FOR THE PROTECTION OF ALL PERSONS
FROM ENFORCED DISAPPEARANCE**

Preamble

The States Parties to this Convention,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to the Universal Declaration of Human Rights, *Recalling* the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the other relevant international instruments in the fields of human rights, humanitarian law and international criminal law,

Also recalling the Declaration on the Protection of All Persons from Enforced Disappearance adopted by the General Assembly of the United Nations in its resolution 47/133 of 18 December 1992,

Aware of the extreme seriousness of enforced disappearance, which constitutes a crime and, in certain circumstances defined in international law, a crime against humanity,

**MEDNARODNA KONVENCIJA
O ZAŠČITI VSEH OSEB
PRED PRISILNIM IZGINOTJEM**

Preambula

Pogodbenice te konvencije so se

ob upoštevanju obveznosti držav na podlagi Ustanovne listine Organizacije združenih narodov, da spodbujajo splošno spoštovanje in upoštevanje človekovih pravic in temeljnih svoboščin,

ob upoštevanju Splošne deklaracije človekovih pravic, *ob sklicevanju* na Mednarodni pakt o ekonomskih, socialnih in kulturnih pravicah, Mednarodni pakt o državljskih in političnih pravicah ter druge ustrezne mednarodne akte o človekovih pravicah, humanitarnem pravu in mednarodnem kazenskem pravu,

tudi ob sklicevanju na Izjavo o zaščiti vseh oseb pred prisilnim izginotjem, ki jo je Generalna skupščina Organizacije združenih narodov sprejela v svoji resoluciji 47/133 z dne 18. decembra 1992,

ob zavedanju skrajne resnosti prisilnega izginotja, ki je zločin in se v nekaterih okoliščinah v mednarodnem pravu opredeljuje kot zločin proti človeštvu,

Determined to prevent enforced disappearances and to combat impunity for the crime of enforced disappearance,

Considering the right of any person not to be subjected to enforced disappearance, the right of victims to justice and to reparation,

Affirming the right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person, and the right to freedom to seek, receive and impart information to this end,

Have agreed on the following articles:

PART I

Article 1

1. No one shall be subjected to enforced disappearance.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.

Article 2

For the purposes of this Convention, "enforced disappearance" is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

Article 3

Each State Party shall take appropriate measures to investigate acts defined in article 2 committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to bring those responsible to justice.

Article 4

Each State Party shall take the necessary measures to ensure that enforced disappearance constitutes an offence under its criminal law.

Article 5

The widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and shall attract the consequences provided for under such applicable international law.

Article 6

1. Each State Party shall take the necessary measures to hold criminally responsible at least:

(a) Any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance;

(b) A superior who:

(i) Knew, or consciously disregarded information which clearly indicated, that subordinates under his or her effective authority and control were committing or about to commit a crime of enforced disappearance;

(ii) Exercised effective responsibility for and control over activities which were concerned with the crime of enforced disappearance; and

(iii) Failed to take all necessary and reasonable measures within his or her power to prevent or repress the commission of an enforced disappearance or to submit the matter to the competent authorities for investigation and prosecution;

(c) Subparagraph (b) above is without prejudice to the higher standards of responsibility applicable under relevant international law to a military commander or to a person effectively acting as a military commander.

odločene, da preprečijo prisilna izginotja in se bojujejo proti nekaznovanosti za zločin prisilnega izginotja,

ob upoštevanju pravice vsake osebe, da ni žrtev prisilnega izginotja, pravice žrtev do pravičnosti in povrnitve škode,

ob potrjevanju pravice vsake žrtve, da izve resnico o okoliščinah prisilnega izginotja in usodi izginule osebe, ter pravice, da zahteva, dobi in da podatke v ta namen,

sporazumele o naslednjih členih:

I. DEL

1. člen

1. Nihče ne sme biti žrtev prisilnega izginotja.

2. Sklicevanje na kakršne koli izjemne okoliščine, kot je vojno stanje ali vojna nevarnost, notranjepolitična nestabilnost ali kakšna druga splošna nevarnost, kot razloge za prisilno izginotje ni dovoljeno.

2. člen

V tej konvenciji "prisilno izginotje" pomeni pripor, pridržanje, ugrabitev ali vsako drugo obliko odvzema prostosti, kar stori predstavnik države ali osebe ali skupine oseb po pooblastilu, s podporo ali privolitvijo države, ki potem takega odvzema prostosti ne prizna ali prikriva usodo izginule osebe ali, kje je ta oseba, s čimer ji je odvzeto pravno varstvo.

3. člen

Vsaka država pogodbenica sprejme ustrezne ukrepe za preiskavo dejanj, opredeljenih v 2. členu, ki jih storijo osebe ali skupine oseb brez pooblastila, podpore ali privolitve države, in odgovorne privede pred sodišče.

4. člen

Vsaka država pogodbenica stori vse, kar je treba, da v svojem kazenskem pravu zagotovi, da je prisilno izginotje kaznivo dejanje.

5. člen

Pogosta ali sistemska praksa prisilnega izginotja je zločin proti človeštvu, kakor je opredeljen v veljavnem mednarodnem pravu, in ima posledice, predvidene v tem veljavnem mednarodnem pravu.

6. člen

1. Vsaka država pogodbenica sprejme ukrepe, ki so potrebni za kazensko odgovornost vsaj:

(a) vsake osebe, ki stori, ukaže, spodbudi ali povzroči storitev prisilnega izginotja, ga poskuša storiti, je sostorilec ali sodeluje pri prisilnem izginotju;

(b) nadrejene osebe, ki:

(i) je poznala ali pa je zavestno spregledala podatke, ki jasno kažejo, da so podrejeni pod njeno dejansko pristojnostjo in nadzorom storili ali nameravajo storiti kaznivo dejanje prisilnega izginotja;

(ii) je bila dejansko odgovorna za dejavnosti in nadzor nad dejavnostmi, povezanimi s kaznivim dejanjem prisilnega izginotja, in

(iii) ni potrebno in primerno ukrepala v okviru svoje pristojnosti, da bi preprečila ali ustavila storitev prisilnega izginotja ali zadevo predložila pristojnim oblastem zaradi preiskave in pregona;

(c) zgornji pododstavek (b) ne vpliva na strožja merila odgovornosti, ki v ustreznem mednarodnem pravu veljajo za vojaškega poveljnika ali osebo, ki dejansko nastopa kot vojaški poveljnik.

2. No order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance.

Article 7

1. Each State Party shall make the offence of enforced disappearance punishable by appropriate penalties which take into account its extreme seriousness.

2. Each State Party may establish:

(a) Mitigating circumstances, in particular for persons who, having been implicated in the commission of an enforced disappearance, effectively contribute to bringing the disappeared person forward alive or make it possible to clarify cases of enforced disappearance or to identify the perpetrators of an enforced disappearance;

(b) Without prejudice to other criminal procedures, aggravating circumstances, in particular in the event of the death of the disappeared person or the commission of an enforced disappearance in respect of pregnant women, minors, persons with disabilities or other particularly vulnerable persons.

Article 8

Without prejudice to article 5,

1. A State Party which applies a statute of limitations in respect of enforced disappearance shall take the necessary measures to ensure that the term of limitation for criminal proceedings:

(a) Is of long duration and is proportionate to the extreme seriousness of this offence;

(b) Commences from the moment when the offence of enforced disappearance ceases, taking into account its continuous nature.

2. Each State Party shall guarantee the right of victims of enforced disappearance to an effective remedy during the term of limitation.

Article 9

1. Each State Party shall take the necessary measures to establish its competence to exercise jurisdiction over the offence of enforced disappearance:

(a) When the offence is committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

(b) When the alleged offender is one of its nationals;

(c) When the disappeared person is one of its nationals and the State Party considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its competence to exercise jurisdiction over the offence of enforced disappearance when the alleged offender is present in any territory under its jurisdiction, unless it extradites or surrenders him or her to another State in accordance with its international obligations or surrenders him or her to an international criminal tribunal whose jurisdiction it has recognized.

3. This Convention does not exclude any additional criminal jurisdiction exercised in accordance with national law.

Article 10

1. Upon being satisfied, after an examination of the information available to it, that the circumstances so warrant, any State Party in whose territory a person suspected of having committed an offence of enforced disappearance is present shall take him or her into custody or take such other legal measures as are necessary to ensure his or her presence. The custody and other legal measures shall be as provided for in the law of that State Party but may be maintained only for such time as is necessary to ensure the person's presence at criminal, surrender or extradition proceedings.

2. Sklicevanje na kateri koli ukaz ali navodilo javnega, civilnega, vojaškega ali drugega organa oblasti ni dovoljeno in ne upravičuje kaznivega dejanja prisilnega izginotja.

7. člen

1. Vsaka država pogodbenica kaznivo dejanje prisilnega izginotja kaznuje z ustreznimi kaznimi, pri katerih se upošteva njegova skrajna resnost.

2. Vsaka država pogodbenica lahko uvede:

(a) olajševalne okoliščine, zlasti za osebe, ki so bile vpletene v storitev prisilnega izginotja in dejavno prispevajo k temu, da se izginula oseba vrne živa, ali omogočijo pojasnitev primerov prisilnega izginotja ali odkrivanje storilcev prisilnega izginotja;

(b) oteževalne okoliščine, ne da bi to vplivalo na druge kazenske postopke, zlasti v primeru mlrti izginule osebe ali storitve prisilnega izginotja nosečnic, mladoletnikov, invalidnih oseb ali drugih posebej ranljivih oseb.

8. člen

Ne glede na 5. člen

1. država pogodbenica, ki v zvezi s prisilnim izginotjem uporablja zastaranje, stori vse potrebno za zagotovitev, da rok zastaranja kazenskega postopka:

(a) traja dolgo in je sorazmeren s skrajno resnostjo tega kaznivega dejanja;

(b) začne teči od trenutka, ko kaznivo dejanje prisilnega izginotja preneha, ob upoštevanju njegove trajajoče narave.

2. Vsaka država pogodbenica žrtvam prisilnega izginotja zagotovi pravico do učinkovitega pravnega sredstva med trajanjem zastaralnega roka.

9. člen

1. Vsaka država pogodbenica stori vse, kar je treba, da vzpostavi svojo pristojnost pri izvajanju jurisdikcije v zvezi s kaznivim dejanjem prisilnega izginotja:

(a) kadar je kaznivo dejanje storjeno na katerem koli ozemlju pod njeno jurisdikcijo ali na plovilu ali v zrakoplovu, registriranem v tej državi;

(b) kadar je domnevni storilec dejanja njen državljan;

(c) kadar je izginula oseba njen državljan in država pogodbenica meni, da je to primerno.

2. Vsaka država pogodbenica prav tako stori vse potrebno, da vzpostavi svojo pristojnost pri izvajanju jurisdikcije v zvezi s kaznivim dejanjem prisilnega izginotja, kadar je domnevni storilec na katerem koli ozemlju pod njeno jurisdikcijo, razen če ga v skladu s svojimi mednarodnimi obveznostmi izroči ali preda drugi državi ali ga preda mednarodnemu kazenskemu sodišču, katerega jurisdikcijo priznava.

3. Ta konvencija ne izključuje dodatne kazenske jurisdikcije, ki se izvaja v skladu z notranjim pravom.

10. člen

1. Kadar država pogodbenica, na katere ozemlju je oseba, osumljena kaznivega dejanja prisilnega izginotja, po proučitvi razpoložljivih podatkov ugotovi, da okoliščine to utemeljujejo, to osebo pripre ali sprejme vse potrebne pravne ukrepe, s katerimi zagotovi njeno navzočnost. Pripor in drugi pravni ukrepi morajo biti v skladu z zakonodajo te države pogodbenice, vendar smejo trajati samo toliko časa, kolikor je treba za zagotovitev navzočnosti osebe pri kazenskem postopku, postopku predaje ali izročitve.

2. A State Party which has taken the measures referred to in paragraph 1 of this article shall immediately carry out a preliminary inquiry or investigations to establish the facts. It shall notify the States Parties referred to in article 9, paragraph 1, of the measures it has taken in pursuance of paragraph 1 of this article, including detention and the circumstances warranting detention, and of the findings of its preliminary inquiry or its investigations, indicating whether it intends to exercise its jurisdiction.

3. Any person in custody pursuant to paragraph 1 of this article may communicate immediately with the nearest appropriate representative of the State of which he or she is a national, or, if he or she is a stateless person, with the representative of the State where he or she usually resides.

Article 11

1. The State Party in the territory under whose jurisdiction a person alleged to have committed an offence of enforced disappearance is found shall, if it does not extradite that person or surrender him or her to another State in accordance with its international obligations or surrender him or her to an international criminal tribunal whose jurisdiction it has recognized, submit the case to its competent authorities for the purpose of prosecution.

2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State Party. In the cases referred to in article 9, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 9, paragraph 1.

3. Any person against whom proceedings are brought in connection with an offence of enforced disappearance shall be guaranteed fair treatment at all stages of the proceedings. Any person tried for an offence of enforced disappearance shall benefit from a fair trial before a competent, independent and impartial court or tribunal established by law.

Article 12

1. Each State Party shall ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation. Appropriate steps shall be taken, where necessary, to ensure that the complainant, witnesses, relatives of the disappeared person and their defence counsel, as well as persons participating in the investigation, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given.

2. Where there are reasonable grounds for believing that a person has been subjected to enforced disappearance, the authorities referred to in paragraph 1 of this article shall undertake an investigation, even if there has been no formal complaint.

3. Each State Party shall ensure that the authorities referred to in paragraph 1 of this article:

(a) Have the necessary powers and resources to conduct the investigation effectively, including access to the documentation and other information relevant to their investigation;

(b) Have access, if necessary with the prior authorization of a judicial authority, which shall rule promptly on the matter, to any place of detention or any other place where there are reasonable grounds to believe that the disappeared person may be present.

4. Each State Party shall take the necessary measures to prevent and sanction acts that hinder the conduct of an investigation. It shall ensure in particular that persons suspected of having committed an offence of enforced disappearance are not in a position to influence the progress of an investigation by means of pressure or acts of intimidation or reprisal aimed at the complainant, witnesses, relatives of the disappeared person or their defence counsel, or at persons participating in the investigation.

2. Država pogodbenica, ki je ukrepala v skladu s prvim odstavkom tega člena, takoj opravi predhodno poizvedbo ali preiskave za ugotovitev dejstev. Države pogodbenice iz prvega odstavka 9. člena uradno obvesti o ukrepih, sprejetih na podlagi prvega odstavka tega člena, vključno s pridržanjem in okoliščinami, ki utemeljujejo pridržanje, ter o ugotovitvah predhodne poizvedbe ali preiskav z navedbo, ali namerava izvajati svojo jurisdikcijo.

3. Vsaka oseba, ki je priprta na podlagi prvega odstavka tega člena, se lahko takoj poveže z najbližjim ustreznim predstavnikom države, katere državljan/-ka je, ali če je oseba brez državljanstva, s predstavnikom države, v kateri običajno prebiva.

11. člen

1. Če država pogodbenica, na ozemlju katere je pod njeno jurisdikcijo oseba, ki je domnevno storila kaznivo dejanje prisilnega izginotja, te osebe ne izroči ali preda drugi državi v skladu s svojimi mednarodnimi obveznostmi ali je ne preda mednarodnemu kazenskemu sodišču, katerega jurisdikcijo priznava, zadevo predloži svojim pristojnim organom zaradi pregona.

2. Navedeni organi sprejmejo odločitev na enak način kot pri katerem koli drugem hudem kaznivem dejanju po pravu te države pogodbenice. V primerih, navedenih v drugem odstavku 9. člena, dokazni standardi za pregon in obsodbo nikakor ne smejo biti manj strogi kot tisti, ki se uporabljajo v primerih, navedenih v prvem odstavku 9. člena.

3. Vsaki osebi, proti kateri je sprožen postopek v zvezi s kaznivim dejanjem prisilnega izginotja, se zagotovi poštena obravnava na vseh stopnjah postopka. Vsaka oseba, ki je v sodnem postopku zaradi kaznivega dejanja prisilnega izginotja, ima pravico do poštenega sojenja pred pristojnim, neodvisnim, nepristranskim in z zakonom ustanovljenim sodiščem.

12. člen

1. Vsaka država pogodbenica zagotovi, da ima posameznik, ki zatrjuje, da je bila neka oseba žrtev prisilnega izginotja, pravico poročati pristojnim organom o dejstvih, ti pa navedbo preverijo takoj in nepristransko ter po potrebi brez odlašanja začnejo temeljito in nepristransko preiskavo. Po potrebi se sprejmejo ustrezni ukrepi, da se zagotovi zaščita pritožnika, prič, sorodnikov izginule osebe in njihovega zagovornika ter oseb, ki sodelujejo pri preiskavi, pred trpinčenjem ali ustrahovanjem kot posledico pritožbe ali kakršnih koli danih dokazov.

2. Kadar obstajajo utemeljeni razlogi za sum, da je bila neka oseba žrtev prisilnega izginotja, organi iz prvega odstavka tega člena začnejo preiskavo, tudi če ni bilo uradne pritožbe.

3. Vsaka država pogodbenica organom iz prvega odstavka tega člena zagotovi:

(a) potrebna pooblastila in sredstva za učinkovito vodenje preiskave, vključno z dostopom do dokumentacije in drugih podatkov, povezanih s preiskavo;

(b) dostop do katerega koli kraja odvzema prostosti ali drugega kraja, za katerega obstajajo utemeljeni razlogi za sum, da je izginula oseba lahko tam, po potrebi s predhodno odobritvijo sodnega organa, ki takoj odloča o tem.

4. Vsaka država pogodbenica stori vse potrebno za preprečitev ali sankcioniranje dejanj, ki ovirajo vodenje preiskave. Država zlasti zagotovi, da osebe, osumljene kaznivega dejanja prisilnega izginotja, ne morejo vplivati na potek preiskave s pritiskom ali dejanji ustrahovanja ali maščevanja pritožniku, pričam, sorodnikom izginule osebe ali njihovemu zagovorniku ali osebam, ki sodelujejo pri preiskavi.

Article 13

1. For the purposes of extradition between States Parties, the offence of enforced disappearance shall not be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition based on such an offence may not be refused on these grounds alone.

2. The offence of enforced disappearance shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties before the entry into force of this Convention.

3. States Parties undertake to include the offence of enforced disappearance as an extraditable offence in any extradition treaty subsequently to be concluded between them.

4. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the necessary legal basis for extradition in respect of the offence of enforced disappearance.

5. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offence of enforced disappearance as an extraditable offence between themselves.

6. Extradition shall, in all cases, be subject to the conditions provided for by the law of the requested State Party or by applicable extradition treaties, including, in particular, conditions relating to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition or make it subject to certain conditions.

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

Article 14

1. States Parties shall afford one another the greatest measure of mutual legal assistance in connection with criminal proceedings brought in respect of an offence of enforced disappearance, including the supply of all evidence at their disposal that is necessary for the proceedings.

2. Such mutual legal assistance shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable treaties on mutual legal assistance, including, in particular, the conditions in relation to the grounds upon which the requested State Party may refuse to grant mutual legal assistance or may make it subject to conditions.

Article 15

States Parties shall cooperate with each other and shall afford one another the greatest measure of mutual assistance with a view to assisting victims of enforced disappearance, and in searching for, locating and releasing disappeared persons and, in the event of death, in exhuming and identifying them and returning their remains.

Article 16

1. No State Party shall expel, return ("refouler"), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights or of serious violations of international humanitarian law.

13. člen

1. Za namen izročitve med državami pogodbenicami se kaznivo dejanje prisilnega izginotja ne šteje za politično kaznivo dejanje ali kaznivo dejanje, povezano s političnim kaznivim dejanjem, ali za kaznivo dejanje, spodbujeno s političnimi razlogi. V skladu s tem zahteve za izročitev na podlagi takega kaznivega dejanja ni mogoče zavrniti samo iz teh razlogov.

2. Za kaznivo dejanje prisilnega izginotja se šteje, da je kot kaznivo dejanje, za katero se lahko zahteva izročitev, vključeno v vsako mednarodno pogodbo o izročitvi, ki obstaja med državami pogodbenicami pred začetkom veljavnosti te konvencije.

3. Države pogodbenice se zavežejo, da bodo kaznivo dejanje prisilnega izginotja kot kaznivo dejanje, za katero se lahko zahteva izročitev, vključile v vsako pogodbo o izročitvi, ki jo bodo sklenile druga z drugo.

4. Če država pogodbenica, ki obstoj pogodbe postavlja kot pogoj za izročitev, prejme prošnjo za izročitev od druge države pogodbenice, s katero nima pogodbe o izročitvi, lahko to konvencijo šteje kot potrebno pravno podlago za izročitev v zvezi s kaznivim dejanjem prisilnega izginotja.

5. Države pogodbenice, ki obstoja pogodbe ne postavljajo kot pogoja za izročitev, kaznivo dejanje prisilnega izginotja medsebojno priznajo kot kaznivo dejanje, za katero se lahko zahteva izročitev.

6. Za izročitev v vseh primerih veljajo pogoji, ki jih določa zakonodaja zaprosene države pogodbenice ali veljavne pogodbe o izročitvi, zlasti pogoji, ki se nanašajo na najnižjo zahtevano kazen za izročitev in na razloge, na podlagi katerih zaprosena država pogodbenica lahko zavrne izročitev ali zanjo postavi določene pogoje.

7. Nobena določba v tej konvenciji se ne sme razlagati kot naložitev obveznosti za izročitev, če ima zaprosena država pogodbenica utemeljene razloge za domnevo, da je bila prošnja vložena z namenom pregona ali kaznovanja osebe zaradi njenega spola, rase, vere, državljanstva, narodnega porekla, političnega prepričanja ali pripadnosti določeni družbeni skupini, ali če bi ugoditev prošnji škodovala tej osebi zaradi katerega koli navedenega razloga.

14. člen

1. Države pogodbenice si v največji meri zagotavljajo medsebojno pravno pomoč v zvezi s kazenskimi postopki, sproženimi zaradi kaznivega dejanja prisilnega izginotja, skupaj s predložitvijo vseh razpoložljivih dokazov, potrebnih za postopke.

2. Za navedeno medsebojno pravno pomoč veljajo pogoji, določeni v notranji zakonodaji zaprosene države pogodbenice ali veljavnih pogodbah o medsebojni pravni pomoči, vključno zlasti pogoji, ki se nanašajo na razloge, na podlagi katerih lahko zaprosena država pogodbenica zavrne odobritev medsebojne pravne pomoči ali pa zanjo postavi pogoje.

15. člen

Države pogodbenice sodelujejo med seboj in si v največji meri zagotavljajo medsebojno pomoč, da pomagajo žrtvam prisilnega izginotja in pri iskanju, odkrivanju kraja, v katerem je izginula oseba, in njeni rešitvi, ter v primeru smrti pri izkopu in prepoznavi izginule osebe in vrnitvi posmrtnih ostankov.

16. člen

1. Nobena država pogodbenica ne sme osebe izgnati, vrniti ("refouler"), predati ali izročiti drugi državi, kadar ima utemeljene razloge za domnevo, da bi bila oseba v nevarnosti, da postane žrtev prisilnega izginotja.

2. Pri odločanju, ali taki razlogi obstajajo, pristojni organi upoštevajo vse ustrezne vidike, po potrebi tudi obstoja doslednega vzorca grobih, očitnih ali množičnih kršitev človekovih pravic ali hudih kršitev mednarodnega humanitarnega prava v taki državi.

Article 17

1. No one shall be held in secret detention.

2. Without prejudice to other international obligations of the State Party with regard to the deprivation of liberty, each State Party shall, in its legislation:

(a) Establish the conditions under which orders of deprivation of liberty may be given;

(b) Indicate those authorities authorized to order the deprivation of liberty;

(c) Guarantee that any person deprived of liberty shall be held solely in officially recognized and supervised places of deprivation of liberty;

(d) Guarantee that any person deprived of liberty shall be authorized to communicate with and be visited by his or her family, counsel or any other person of his or her choice, subject only to the conditions established by law, or, if he or she is a foreigner, to communicate with his or her consular authorities, in accordance with applicable international law;

(e) Guarantee access by the competent and legally authorized authorities and institutions to the places where persons are deprived of liberty, if necessary with prior authorization from a judicial authority;

(f) Guarantee that any person deprived of liberty or, in the case of a suspected enforced disappearance, since the person deprived of liberty is not able to exercise this right, any persons with a legitimate interest, such as relatives of the person deprived of liberty, their representatives or their counsel, shall, in all circumstances, be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of the deprivation of liberty and order the person's release if such deprivation of liberty is not lawful.

3. Each State Party shall assure the compilation and maintenance of one or more up-to-date official registers and/or records of persons deprived of liberty, which shall be made promptly available, upon request, to any judicial or other competent authority or institution authorized for that purpose by the law of the State Party concerned or any relevant international legal instrument to which the State concerned is a party. The information contained therein shall include, as a minimum:

(a) The identity of the person deprived of liberty;

(b) The date, time and place where the person was deprived of liberty and the identity of the authority that deprived the person of liberty;

(c) The authority that ordered the deprivation of liberty and the grounds for the deprivation of liberty;

(d) The authority responsible for supervising the deprivation of liberty;

(e) The place of deprivation of liberty, the date and time of admission to the place of deprivation of liberty and the authority responsible for the place of deprivation of liberty;

(f) Elements relating to the state of health of the person deprived of liberty;

(g) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains;

(h) The date and time of release or transfer to another place of detention, the destination and the authority responsible for the transfer.

Article 18

1. Subject to articles 19 and 20, each State Party shall guarantee to any person with a legitimate interest in this information, such as relatives of the person deprived of liberty, their representatives or their counsel, access to at least the following information:

(a) The authority that ordered the deprivation of liberty;

(b) The date, time and place where the person was deprived of liberty and admitted to the place of deprivation of liberty;

17. člen

1. Nihče se ne sme zadrževati v tajnem pridržanju.

2. Vsaka država pogodbenica v svoji zakonodaji brez poseganja v druge mednarodne obveznosti države pogodbenice glede odvzema prostosti:

(a) oblikuje pogoje za izdajo naloga za odvzem prostosti;

(b) navede organe, pooblašcene za odreditev odvzema prostosti;

(c) zagotovi, da je oseba, ki ji je odvzeta prostost, pridržana izključno v uradno priznanih in nadzorovanih prostorih za odvzem prostosti;

(d) zagotovi, da je vsaki osebi, ki ji je odvzeta prostost, dovoljeno imeti stike z družino in da jo družina lahko obišče, prav tako zagovornik in katera koli druga oseba po njeni izbiri, za kar veljajo le pogoji, ki jih predpisuje zakon, če je oseba tujec, pa mu je dovoljeno imeti stike z njegovimi konzularnimi organi v skladu z veljavnim mednarodnim pravom;

(e) pristojnim in zakonito pooblaščenim organom in ustanovam zagotovi dostop do prostorov, v katerih je osebam odvzeta prostost, po potrebi s predhodno odobritvijo sodnega organa;

(f) zagotovi, da ima vsaka oseba, ki ji je odvzeta prostost, ali v primeru suma prisilnega izginotja, glede na to, da oseba, ki ji je odvzeta prostost, ne more uveljavljati te pravice, vse osebe z upravičenim interesom, kot so sorodniki osebe, ki ji je odvzeta prostost, njihovi zastopniki ali zagovornik, v vseh okoliščinah pravico sprožiti postopek pred sodiščem, da bi sodišče lahko brez odlašanja odločilo o zakonitosti odvzema prostosti in odredilo izpustitev osebe, če odvzem prostosti ni zakonit.

3. Vsaka država pogodbenica zagotovi pripravo in vodenje enega ali več uradnih registrov, ki jih nenehno dopolnjuje, in/ali evidence oseb, ki jim je bila odvzeta prostost, ki so na zahtevo takoj na voljo kateremu koli pravosodnemu ali drugemu pristojnemu organu ali ustanovi, ki jo v ta namen pooblasti zakonodaja države pogodbenice ali je pooblašcana s katerim koli ustreznim mednarodnopravnim aktom, katerega pogodbenica je ta država. Podatki v registru ali evidenci vključujejo najmanj:

(a) identiteto osebe, ki ji je bila odvzeta prostost;

(b) datum, uro in kraj, kjer je bila osebi odvzeta prostost, in ime organa, ki je osebi odvzel prostost;

(c) organ, ki je odredil odvzem prostosti, in razloge za odvzem prostosti;

(d) organ, ki je pristojen za nadzor nad odvzемом prostosti;

(e) kraj odvzema prostosti, datum in uro sprejema v prostor odvzema prostosti ter organ, ki je odgovoren za prostor odvzema prostosti;

(f) podatke o zdravstvenem stanju osebe, ki ji je odvzeta prostost;

(g) v primeru smrti med odvzемом prostosti okoliščine in vzrok smrti ter namembni kraj posmrtnih ostankov;

(h) datum in uro izpustitve na prostost ali premestitve v drug prostor pridržanja, namembni kraj in organ, ki je odgovoren za premestitev.

18. člen

1. Ob upoštevanju 19. in 20. člena vsaka država pogodbenica zagotovi vsaki osebi z upravičenim interesom za te podatke, kot so sorodniki osebe, ki ji je odvzeta prostost, njihovi zastopniki ali njihov zagovornik, dostop najmanj do podatkov o:

(a) organu, ki je odredil odvzem prostosti;

(b) datumu, uri in kraju odvzema prostosti osebi ter njenem sprejetju v prostor odvzema prostosti;

(c) The authority responsible for supervising the deprivation of liberty;

(d) The whereabouts of the person deprived of liberty, including, in the event of a transfer to another place of deprivation of liberty, the destination and the authority responsible for the transfer;

(e) The date, time and place of release;

(f) Elements relating to the state of health of the person deprived of liberty;

(g) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains.

2. Appropriate measures shall be taken, where necessary, to protect the persons referred to in paragraph 1 of this article, as well as persons participating in the investigation, from any ill-treatment, intimidation or sanction as a result of the search for information concerning a person deprived of liberty.

Article 19

1. Personal information, including medical and genetic data, which is collected and/or transmitted within the framework of the search for a disappeared person shall not be used or made available for purposes other than the search for the disappeared person. This is without prejudice to the use of such information in criminal proceedings relating to an offence of enforced disappearance or the exercise of the right to obtain reparation.

2. The collection, processing, use and storage of personal information, including medical and genetic data, shall not infringe or have the effect of infringing the human rights, fundamental freedoms or human dignity of an individual.

Article 20

1. Only where a person is under the protection of the law and the deprivation of liberty is subject to judicial control may the right to information referred to in article 18 be restricted, on an exceptional basis, where strictly necessary and where provided for by law, and if the transmission of the information would adversely affect the privacy or safety of the person, hinder a criminal investigation, or for other equivalent reasons in accordance with the law, and in conformity with applicable international law and with the objectives of this Convention. In no case shall there be restrictions on the right to information referred to in article 18 that could constitute conduct defined in article 2 or be in violation of article 17, paragraph 1.

2. Without prejudice to consideration of the lawfulness of the deprivation of a person's liberty, States Parties shall guarantee to the persons referred to in article 18, paragraph 1, the right to a prompt and effective judicial remedy as a means of obtaining without delay the information referred to in article 18, paragraph 1. This right to a remedy may not be suspended or restricted in any circumstances.

Article 21

Each State Party shall take the necessary measures to ensure that persons deprived of liberty are released in a manner permitting reliable verification that they have actually been released. Each State Party shall also take the necessary measures to assure the physical integrity of such persons and their ability to exercise fully their rights at the time of release, without prejudice to any obligations to which such persons may be subject under national law.

Article 22

Without prejudice to article 6, each State Party shall take the necessary measures to prevent and impose sanctions for the following conduct:

(a) Delaying or obstructing the remedies referred to in article 17, paragraph 2 (f), and article 20, paragraph 2;

(c) organu, pristojnem za nadzor nad odvzemom prostosti;

(d) kraju, kjer je oseba, ki ji je bila odvzeta prostost, vključno ob premestitvi v drug prostor odvzema prostosti, o namembnem kraju in organu, odgovornem za premestitev;

(e) datumu, času in kraju izpustitve na prostost;

(f) zdravstvenem stanju osebe, ki ji je odvzeta prostost;

(g) v primeru smrti med odvzemom prostosti o okoliščinah in vzroku smrti ter namembnem kraju posmrtnih ostankov.

2. Po potrebi je treba ustrezno ukrepati za zaščito oseb iz prvega odstavka tega člena in tudi oseb, ki sodelujejo pri preiskavi, pred kakršnim koli trpinčenjem, ustrahovanjem ali sankcijo kot posledico iskanja informacij o osebi, ki ji je bila odvzeta prostost.

19. člen

1. Osebni podatki, vključno z zdravstvenimi in genetskimi, zbrani in/ali poslani pri iskanju izginule osebe, se ne smejo uporabiti ali dati na voljo za druge namene, razen za iskanje izginule osebe. To ne vpliva na uporabo teh podatkov v kazenskem postopku v zvezi s kaznivim dejanjem prisilnega izginotja ali pri uveljavljanju pravice do odškodnine.

2. Zbiranje, obdelava, uporaba in shranjevanje osebnih podatkov, vključno z zdravstvenimi in genetskimi, ne smejo kršiti ali povzročiti kršitev človekovih pravic, temeljnih svoboščin ali človekovega dostojanstva posameznika.

20. člen

1. Samo kadar je oseba zakonsko zaščitena, odvzem prostosti pa je pod sodnim nadzorom, se pravica do podatkov iz 18. člena lahko izjemoma omeji, kadar je to nujno potrebno ali določeno v zakonodaji, in če bi pošiljanje podatkov škodovalo zasebnosti ali varnosti osebe, oviralo preiskavo kaznivega dejanja ali zaradi drugih podobnih razlogov v skladu z zakonodajo in veljavnim mednarodnim pravom ter cilji te konvencije. V nobenem primeru se ne sme naložiti omejitev pravice do podatkov iz 18. člena, ki bi lahko pomenila ravnanje, opredeljeno v 2. členu, ali kršitev prvega odstavka 17. člena.

2. Brez poseganja v presojo o zakonitosti odvzema prostosti osebi države pogodbenice osebam iz prvega odstavka 18. člena zagotovijo pravico do takojšnjega in učinkovitega pravnega sredstva kot načina za takojšnjo pridobitev podatkov iz prvega odstavka 18. člena. Te pravice do pravnega sredstva v nobenih okoliščinah ni mogoče odložiti ali omejiti.

21. člen

Vsaka država pogodbenica stori vse potrebno, da osebam, ki jim je bila odvzeta prostost, zagotovi izpustitev na način, ki omogoča zanesljivo potrditev, da so bile dejansko izpuščene. Vsaka država pogodbenica stori vse potrebno, da takim osebam zagotovi telesno integriteto in jim omogoči popolno uveljavljanje njihovih pravic ob izpustitvi brez vpliva na obveznosti, ki lahko veljajo za take osebe po notranjem pravu.

22. člen

Brez poseganja v 6. člen vsaka država pogodbenica stori vse potrebno, da prepreči naslednje ravnanje in odredi sankcije zanj:

(a) zavlačevanje ali oviranje pravnih sredstev iz pododstavka (f) drugega odstavka 17. člena in drugega odstavka 20. člena;

(b) Failure to record the deprivation of liberty of any person, or the recording of any information which the official responsible for the official register knew or should have known to be inaccurate;

(c) Refusal to provide information on the deprivation of liberty of a person, or the provision of inaccurate information, even though the legal requirements for providing such information have been met.

Article 23

1. Each State Party shall ensure that the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty includes the necessary education and information regarding the relevant provisions of this Convention, in order to:

(a) Prevent the involvement of such officials in enforced disappearances;

(b) Emphasize the importance of prevention and investigations in relation to enforced disappearances;

(c) Ensure that the urgent need to resolve cases of enforced disappearance is recognized.

2. Each State Party shall ensure that orders or instructions prescribing, authorizing or encouraging enforced disappearance are prohibited. Each State Party shall guarantee that a person who refuses to obey such an order will not be punished.

3. Each State Party shall take the necessary measures to ensure that the persons referred to in paragraph 1 of this article who have reason to believe that an enforced disappearance has occurred or is planned report the matter to their superiors and, where necessary, to the appropriate authorities or bodies vested with powers of review or remedy.

Article 24

1. For the purposes of this Convention, "victim" means the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance.

2. Each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person. Each State Party shall take appropriate measures in this regard.

3. Each State Party shall take all appropriate measures to search for, locate and release disappeared persons and, in the event of death, to locate, respect and return their remains.

4. Each State Party shall ensure in its legal system that the victims of enforced disappearance have the right to obtain reparation and prompt, fair and adequate compensation.

5. The right to obtain reparation referred to in paragraph 4 of this article covers material and moral damages and, where appropriate, other forms of reparation such as:

(a) Restitution;

(b) Rehabilitation;

(c) Satisfaction, including restoration of dignity and reputation;

(d) Guarantees of non-repetition.

6. Without prejudice to the obligation to continue the investigation until the fate of the disappeared person has been clarified, each State Party shall take the appropriate steps with regard to the legal situation of disappeared persons whose fate has not been clarified and that of their relatives, in fields such as social welfare, financial matters, family law and property rights.

7. Each State Party shall guarantee the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearance.

(b) če odvzem prostosti kateri koli osebi ni vpisan ali če kateri koli vpisani podatek, za katerega je uradnik, pristojen za uradni register, vedel ali bi moral vedeti, da je nepravilen;

(c) zavrnitev sporočanja podatkov o odvzemu prostosti osebi ali sporočanje nepravilnih podatkov, čeprav so bile pravne zahteve za sporočanje takih podatkov izpolnjene.

23. člen

1. Vsaka država pogodbenica zagotovi, da usposabljanje osebja organov kazenskega pregona, civilnega ali vojaškega, zdravstvenega osebja, javnih uslužbencev in drugih oseb, ki lahko sodelujejo pri priporu ali obravnavi katere koli osebe, ki ji je odvzeta prostost, vključuje potrebno izobraževanje in informacije o ustreznih določbah te konvencije, da bi se:

(a) preprečila vpletenost navedenih uslužbencev v prisilna izginotja;

(b) poudarila pomembnost preprečevanja prisilnih izginotij in preiskav v zvezi z njimi;

(c) zagotovilo priznanje nujne potrebe po reševanju primerov prisilnega izginotja.

2. Vsaka država pogodbenica zagotovi prepoved dajanja ukazov ali navodil, ki odredajo, dovoljujejo ali spodbujajo prisilno izginotje. Vsaka država pogodbenica zagotovi, da oseba, ki zavrne izpolnitev takega ukaza, ne bo kaznovana.

3. Vsaka država pogodbenica stori vse potrebno za zagotovitev, da osebe iz prvega odstavka tega člena, ki imajo razlog za domnevo, da je prišlo do prisilnega izginotja ali je to načrtovano, o zadevi poročajo svojim nadrejenim in po potrebi ustreznim organom ali telesom, ki so pooblaščen za preverjanje ali pravna sredstva.

24. člen

1. V tej konvenciji "žrtev" pomeni izginulo osebo in katerega koli posameznika, ki je utrpel škodo kot neposredno posledico prisilnega izginotja.

2. Vsaka žrtev ima pravico seznaniti se z resnico o okoliščinah prisilnega izginotja, poteku in izsledkih preiskave ter z usodo izginule osebe. Država pogodbenica stori vse, kar je za to potrebno.

3. Vsaka država pogodbenica stori vse potrebno, da prisilno izginule osebe išče, ugotovi, kje so, in jih izpusti, v primeru smrti pa ugotovi, kje so njihovi posmrtni ostanki, z njimi ravna spoštljivo in jih vrne.

4. Vsaka država pogodbenica v svojem pravnem sistemu zagotovi, da imajo žrtve prisilnega izginotja pravico do povrnitve škode in takojšnjega, poštenega in primernega nadomestila.

5. Pravica do povrnitve škode iz četrtega odstavka tega člena zajema materialno in moralno zadoščenje ter po potrebi druge oblike povrnitve škode, na primer:

(a) vzpostavitev prejšnjega stanja;

(b) rehabilitacijo;

(c) zadoščenje, kar vključuje tudi vrnitev dostojanstva in ugleda;

(d) zagotovilo, da se to ne bo ponovilo.

6. Ne glede na obveznost nadaljevanja preiskave, dokler usoda izginule osebe ni pojasnjena, vsaka država pogodbenica stori vse potrebno v zvezi s pravnim položajem izginulih oseb, katerih usoda ni pojasnjena, in njihovih sorodnikov, na področjih, kot so socialno varstvo, finančne zadeve, družinsko pravo in lastninske pravice.

7. Vsaka država pogodbenica zagotovi pravico do svobodnega ustanavljanja organizacij in združenj, ki poskušajo ugotoviti okoliščine prisilnih izginotij in usodo izginulih oseb, in sodelovanja v njih ter do pomoči žrtvam prisilnega izginotja.

Article 25

1. Each State Party shall take the necessary measures to prevent and punish under its criminal law:

(a) The wrongful removal of children who are subjected to enforced disappearance, children whose father, mother or legal guardian is subjected to enforced disappearance or children born during the captivity of a mother subjected to enforced disappearance;

(b) The falsification, concealment or destruction of documents attesting to the true identity of the children referred to in subparagraph (a) above.

2. Each State Party shall take the necessary measures to search for and identify the children referred to in paragraph 1 (a) of this article and to return them to their families of origin, in accordance with legal procedures and applicable international agreements.

3. States Parties shall assist one another in searching for, identifying and locating the children referred to in paragraph 1 (a) of this article.

4. Given the need to protect the best interests of the children referred to in paragraph 1 (a) of this article and their right to preserve, or to have re-established, their identity, including their nationality, name and family relations as recognized by law, States Parties which recognize a system of adoption or other form of placement of children shall have legal procedures in place to review the adoption or placement procedure, and, where appropriate, to annul any adoption or placement of children that originated in an enforced disappearance.

5. In all cases, and in particular in all matters relating to this article, the best interests of the child shall be a primary consideration, and a child who is capable of forming his or her own views shall have the right to express those views freely, the views of the child being given due weight in accordance with the age and maturity of the child.

PART II**Article 26**

1. A Committee on Enforced Disappearances (hereinafter referred to as "the Committee") shall be established to carry out the functions provided for under this Convention. The Committee shall consist of ten experts of high moral character and recognized competence in the field of human rights, who shall serve in their personal capacity and be independent and impartial. The members of the Committee shall be elected by the States Parties according to equitable geographical distribution. Due account shall be taken of the usefulness of the participation in the work of the Committee of persons having relevant legal experience and of balanced gender representation.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties from among their nationals, at biennial meetings of the States Parties convened by the Secretary-General of the United Nations for this purpose. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

3. The initial election shall be held no later than six months after the date of entry into force of this Convention. Four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the State Party which nominated each candidate, and shall submit this list to all States Parties.

25. člen

1. Vsaka država pogodbenica stori vse potrebno, da prepreči in po svojem kazenskem pravu kaznuje:

(a) nezakonito odstranitev otrok, ki so žrtve prisilnega izginotja, otrok, katerih oče, mati ali zakoniti skrbnik so žrtve prisilnega izginotja, ali otrok, rojenih med ujetništvom matere, ki je žrtev prisilnega izginotja;

(b) ponarejanje, skrivanje ali uničenje dokumentov, ki potrjujejo pravo identiteto otrok iz zgornjega pododstavka (a).

2. Vsaka država pogodbenica stori vse potrebno, da poišče in prepozna otroke iz pododstavka (a) prvega odstavka tega člena ter jih vrne njihovim izvornim družinam v skladu s pravnimi postopki in veljavnimi mednarodnimi sporazumi.

3. Države pogodbenice druga drugi pomagajo pri iskanju in prepoznavi otrok iz pododstavka (a) prvega odstavka tega člena ter pri ugotavljanju, kje so.

4. Ker je treba zaščititi koristi otrok iz pododstavka (a) prvega odstavka tega člena in njihove pravice, da ohranijo svojo identiteto ali da se jim vrne njihova identiteta, vključno z državljanstvom, imenom in družinskimi vezmi, kakor jih pravo priznava, države pogodbenice, ki priznavajo sistem posvojitve ali drugih oblik namestitve otrok, uvedejo pravne postopke za ponovni pregled postopkov za posvojitve ali namestitve in po potrebi za razveljavitev posvojitve ali namestitve otrok, povezanih s prisilnim izginotjem.

5. V vseh primerih in zlasti pri vseh zadevah v zvezi s tem členom je najpomembnejša korist otroka, in otrok, ki je sposoben oblikovati svoja stališča, mora imeti pravico do njihovega svobodnega izražanja, pri čemer se otrokova stališča ustrezno upoštevajo v skladu z njegovo starostjo in zrelostjo.

II. DEL**26. člen**

1. Ustanovi se Odbor za prisilna izginotja (v nadaljevanju "odbor"), ki opravlja naloge, določene s to konvencijo. Odbor sestavlja deset strokovnjakov z visokim moralnim ugledom in priznano strokovnostjo na področju človekovih pravic, ki delujejo kot posamezniki ter so neodvisni in nepristranski. Člane odbora izvolijo države pogodbenice v skladu s pravično geografsko porazdelitvijo. Pri delu odbora se ustrezno upoštevata koristnost sodelovanja oseb, ki imajo ustrezne pravne izkušnje, in uravnotežena zastopanost spolov.

2. Člani odbora se izvolijo s tajnim glasovanjem s seznama oseb, ki so jih države pogodbenice predlagale izmed svojih državljanov, na sestankih držav pogodbenic, ki jih v ta namen vsaki dve leti skliče generalni sekretar Organizacije združenih narodov. Na teh sestankih, na katerih dve tretjini držav pogodbenic zagotavljata sklepčnost, so v odbor izvoljeni tisti, ki dobijo največ glasov in absolutno večino glasov navzočih predstavnikov držav pogodbenic, ki glasujejo.

3. Prve volitve se opravijo najpozneje šest mesecev po dnevu začetka veljavnosti te konvencije. Štiri mesece pred dnevom vsakih volitev generalni sekretar Organizacije združenih narodov državam pogodbenicam pošlje dopis in jih pozove, naj v treh mesecih predložijo svoje predloge. Generalni sekretar pripravi abecedni seznam vseh predlaganih oseb z navedbo države pogodbenice, ki je predlagala posameznega kandidata, in ga pošlje vsem državam pogodbenicam.

4. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 2 of this article.

5. If a member of the Committee dies or resigns or for any other reason can no longer perform his or her Committee duties, the State Party which nominated him or her shall, in accordance with the criteria set out in paragraph 1 of this article, appoint another candidate from among its nationals to serve out his or her term, subject to the approval of the majority of the States Parties. Such approval shall be considered to have been obtained unless half or more of the States Parties respond negatively within six weeks of having been informed by the Secretary-General of the United Nations of the proposed appointment.

6. The Committee shall establish its own rules of procedure.

7. The Secretary-General of the United Nations shall provide the Committee with the necessary means, staff and facilities for the effective performance of its functions. The Secretary-General of the United Nations shall convene the initial meeting of the Committee.

8. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations, as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

9. Each State Party shall cooperate with the Committee and assist its members in the fulfilment of their mandate, to the extent of the Committee's functions that the State Party has accepted.

Article 27

A Conference of the States Parties will take place at the earliest four years and at the latest six years following the entry into force of this Convention to evaluate the functioning of the Committee and to decide, in accordance with the procedure described in article 44, paragraph 2, whether it is appropriate to transfer to another body – without excluding any possibility – the monitoring of this Convention, in accordance with the functions defined in articles 28 to 36.

Article 28

1. In the framework of the competencies granted by this Convention, the Committee shall cooperate with all relevant organs, offices and specialized agencies and funds of the United Nations, with the treaty bodies instituted by international instruments, with the special procedures of the United Nations and with the relevant regional intergovernmental organizations or bodies, as well as with all relevant State institutions, agencies or offices working towards the protection of all persons against enforced disappearances.

2. As it discharges its mandate, the Committee shall consult other treaty bodies instituted by relevant international human rights instruments, in particular the Human Rights Committee instituted by the International Covenant on Civil and Political Rights, with a view to ensuring the consistency of their respective observations and recommendations.

Article 29

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a report on the measures taken to give effect to its obligations under this Convention, within two years after the entry into force of this Convention for the State Party concerned.

2. The Secretary-General of the United Nations shall make this report available to all States Parties.

4. Člani odbora se volijo za štiriletni mandat. Ponovno so lahko izvoljeni samo enkrat. Mandat petim članom od tistih, izvoljenih na prvih volitvah, poteče po dveh letih; imena teh petih članov takoj po prvih volitvah z žrebom določi predsedujoči sestanku iz drugega odstavka tega člena.

5. Če član odbora umre ali odstopi ali zaradi kakršnega koli vzroka ne more več opravljati nalog v odboru, država pogodbenica, ki ga je predlagala, v skladu z merili, določenimi v prvem odstavku tega člena, imenuje drugega kandidata izmed svojih državljanov, ki bo naloge člana izpolnjeval do konca mandata, odobriti pa ga mora večina držav pogodbenic. Šteje se, da je taka odobritev podana, razen če polovica ali več držav pogodbenic odgovori negativno v šestih tednih po prejetju obvestila o predlaganem imenovanju, ki ga pošlje generalni sekretar Organizacije združenih narodov.

6. Odbor pripravi svoj poslovnik.

7. Generalni sekretar Organizacije združenih narodov odboru za učinkovito opravljanje nalog zagotovi potrebna sredstva, osebje in prostore. Generalni sekretar Organizacije združenih narodov skliče uvodni sestanek odbora.

8. Člani odbora imajo pravico do ugodnosti, privilegijev in imunitet, ki se priznavajo strokovnjakom na misiji Organizacije združenih narodov, kot je določeno v ustreznih členih Konvencije o privilegijih in imunitetah Združenih narodov.

9. Vsaka država pogodbenica sodeluje z odborom in pomaga svojim članom pri izpolnjevanju nalog in pooblastil, ki jih je država pogodbenica sprejela.

27. člen

Konferenca držav pogodbenic bo ne prej kot štiri leta in ne pozneje kot šest let po začetku veljavnosti te konvencije, da oceni delovanje odbora in v skladu s postopkom iz drugega odstavka 44. člena odloči, ali je primerno spremljanje te konvencije prenesti na drugo telo – brez izključitve katere koli možnosti – v skladu z nalogami, opredeljenimi v 28. do 36. členu.

28. člen

1. V okviru pristojnosti po tej konvenciji odbor sodeluje z vsemi ustreznimi organi, uradi ter specializiranimi agencijami in skladi Organizacije združenih narodov, organi, ki so ustanovljeni z mednarodnimi akti, posebnimi postopki Organizacije združenih narodov, in ustreznimi področnimi medvladnimi organizacijami ali telesi ter tudi z vsemi ustreznimi državnimi ustanovami, agencijami ali uradi, ki se ukvarjajo z zaščito vseh oseb pred prisilnimi izginotji.

2. Pri opravljanju svojih nalog se odbor posvetuje z drugimi organi, ustanovljenimi z ustreznimi mednarodnimi akti o človekovih pravicah, zlasti z Odborom za človekove pravice, ustanovljenim z Mednarodnim paktom o državljanskih in političnih pravicah, z namenom zagotavljanja doslednega upoštevanja njihovih pripomb in priporočil.

29. člen

1. Vsaka država pogodbenica odboru po generalnem sekretarju Organizacije združenih narodov predloži poročilo o ukrepih, ki jih je sprejela za izpolnjevanje obveznosti iz te konvencije, v dveh letih po začetku veljavnosti konvencije za to državo pogodbenico.

2. Generalni sekretar Organizacije združenih narodov da navedeno poročilo na voljo vsem državam pogodbenicam.

3. Each report shall be considered by the Committee, which shall issue such comments, observations or recommendations as it may deem appropriate. The comments, observations or recommendations shall be communicated to the State Party concerned, which may respond to them, on its own initiative or at the request of the Committee.

4. The Committee may also request States Parties to provide additional information on the implementation of this Convention.

Article 30

1. A request that a disappeared person should be sought and found may be submitted to the Committee, as a matter of urgency, by relatives of the disappeared person or their legal representatives, their counsel or any person authorized by them, as well as by any other person having a legitimate interest.

2. If the Committee considers that a request for urgent action submitted in pursuance of paragraph 1 of this article:

(a) Is not manifestly unfounded;

(b) Does not constitute an abuse of the right of submission of such requests;

(c) Has already been duly presented to the competent bodies of the State Party concerned, such as those authorized to undertake investigations, where such a possibility exists;

(d) Is not incompatible with the provisions of this Convention; and

(e) The same matter is not being examined under another procedure of international investigation or settlement of the same nature;

it shall request the State Party concerned to provide it with information on the situation of the persons sought, within a time limit set by the Committee.

3. In the light of the information provided by the State Party concerned in accordance with paragraph 2 of this article, the Committee may transmit recommendations to the State Party, including a request that the State Party should take all the necessary measures, including interim measures, to locate and protect the person concerned in accordance with this Convention and to inform the Committee, within a specified period of time, of measures taken, taking into account the urgency of the situation. The Committee shall inform the person submitting the urgent action request of its recommendations and of the information provided to it by the State as it becomes available.

4. The Committee shall continue its efforts to work with the State Party concerned for as long as the fate of the person sought remains unresolved. The person presenting the request shall be kept informed.

Article 31

1. A State Party may at the time of ratification of this Convention or at any time afterwards declare that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by this State Party of provisions of this Convention. The Committee shall not admit any communication concerning a State Party which has not made such a declaration.

2. The Committee shall consider a communication inadmissible where:

(a) The communication is anonymous;

(b) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of this Convention;

(c) The same matter is being examined under another procedure of international investigation or settlement of the same nature; or where

(d) All effective available domestic remedies have not been exhausted. This rule shall not apply where the application of the remedies is unreasonably prolonged.

3. Odbor obravnava vsako poročilo in izda svoje komentarje, pripombe ali priporočila, če meni, da je primerno. Komentarje, pripombe ali priporočila sporoči državi pogodbenici, ki nanje lahko odgovori na lastno pobudo ali na zaprosilo odbora.

4. Odbor lahko od držav pogodbenic tudi zahteva, da zagotovijo dodatne informacije o izvajanju te konvencije.

30. člen

1. Zahtevo, da naj se izginula oseba išče in najde, lahko odboru kot prednostno zadevo predložijo sorodniki izginule osebe ali njihovi pravni zastopniki, njihov zagovornik ali katera koli druga oseba, ki jo pooblastijo, ter tudi katera koli druga oseba, ki ima upravičeni interes za to.

2. Če odbor meni, da zahteva za nujno ukrepanje, predložena na podlagi prvega odstavka tega člena:

(a) ni očitno neutemeljena;

(b) ne pomeni zlorabe pravice do predložitve takih zahtev;

(c) je že bila ustrezno predložena pristojnim organom te države pogodbenice, na primer organom, pooblaščenim za preiskave, če takšna možnost obstaja;

(d) ni nezdržljiva z določbami te konvencije in

(e) iste zadeve ne raziskujejo po drugem postopku mednarodne preiskave ali podobnem istovrstnem postopku,

državo pogodbenico zaprosi, da mu v roku, ki ga določi odbor, pošlje podatke o stanju glede iskanih oseb.

3. Ob upoštevanju podatkov, ki jih država pogodbenica navede v skladu z drugim odstavkom tega člena, lahko odbor državi pogodbenici pošlje priporočila skupaj z zahtevo, naj sprejme vse potrebne ukrepe, tudi začasne, da ugotovi, kje je oseba, in jo zaščiti v skladu s to konvencijo, ter odbor v določenem roku obvesti o sprejetih ukrepih, upošteva nujnost stanja. Odbor obvesti osebo, ki je predložila zahtevo za nujno ukrepanje, o svojih priporočilih in podatkih, ki jih je poslala država ter jih ima odbor na voljo.

4. Odbor si še naprej prizadeva za sodelovanje z državo pogodbenico, dokler ni razrešena usoda iskane osebe. Odbor redno obvešča osebo, ki je predložila zahtevo.

31. člen

1. Ob ratifikaciji te konvencije ali kadar koli pozneje lahko država pogodbenica izjavi, da priznava pristojnost odbora, da prejema in obravnava obvestila posameznikov ali drugih oseb v njihovem imenu pod njeno jurisdikcijo, ki trdijo, da so žrtve njenega kršenja te konvencije. Odbor ne upošteva obvestil, ki se nanašajo na državo pogodbenico, ki take izjave ni dala.

2. Odbor šteje obvestilo za nedopustno, kadar:

(a) je anonimno;

(b) zlorablja pravico do predložitve takega obvestila ali ni združljivo z določbami te konvencije;

(c) se ista zadeva raziskuje po drugem postopku mednarodne preiskave ali podobnem istovrstnem postopku ali kadar

(d) niso bila izčrpana vsa notranjpravna sredstva, ki so na voljo. To pravilo ne velja, kadar uporaba pravnih sredstev traja nerazumno dolgo.

3. If the Committee considers that the communication meets the requirements set out in paragraph 2 of this article, it shall transmit the communication to the State Party concerned, requesting it to provide observations and comments within a time limit set by the Committee.

4. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party will take such interim measures as may be necessary to avoid possible irreparable damage to the victims of the alleged violation. Where the Committee exercises its discretion, this does not imply a determination on admissibility or on the merits of the communication.

5. The Committee shall hold closed meetings when examining communications under the present article. It shall inform the author of a communication of the responses provided by the State Party concerned. When the Committee decides to finalize the procedure, it shall communicate its views to the State Party and to the author of the communication.

Article 32

A State Party to this Convention may at any time declare that it recognizes the competence of the Committee to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention. The Committee shall not receive communications concerning a State Party which has not made such a declaration, nor communications from a State Party which has not made such a declaration.

Article 33

1. If the Committee receives reliable information indicating that a State Party is seriously violating the provisions of this Convention, it may, after consultation with the State Party concerned, request one or more of its members to undertake a visit and report back to it without delay.

2. The Committee shall notify the State Party concerned, in writing, of its intention to organize a visit, indicating the composition of the delegation and the purpose of the visit. The State Party shall answer the Committee within a reasonable time.

3. Upon a substantiated request by the State Party, the Committee may decide to postpone or cancel its visit.

4. If the State Party agrees to the visit, the Committee and the State Party concerned shall work together to define the modalities of the visit and the State Party shall provide the Committee with all the facilities needed for the successful completion of the visit.

5. Following its visit, the Committee shall communicate to the State Party concerned its observations and recommendations.

Article 34

If the Committee receives information which appears to it to contain well-founded indications that enforced disappearance is being practised on a widespread or systematic basis in the territory under the jurisdiction of a State Party, it may, after seeking from the State Party concerned all relevant information on the situation, urgently bring the matter to the attention of the General Assembly of the United Nations, through the Secretary-General of the United Nations.

Article 35

1. The Committee shall have competence solely in respect of enforced disappearances which commenced after the entry into force of this Convention.

2. If a State becomes a party to this Convention after its entry into force, the obligations of that State vis-à-vis the Committee shall relate only to enforced disappearances which commenced after the entry into force of this Convention for the State concerned.

3. Če odbor meni, da obvestilo izpolnjuje zahteve iz drugega odstavka tega člena, ga pošlje državi pogodbenici in jo zaprosi, da v roku, ki ga določi odbor, predloži svoja pripombe in komentarje.

4. Kadar koli po prejemu obvestila in pred odločitvijo o vsebini zadeve lahko odbor pošlje državi pogodbenici v prednostno obravnavo zahtevke, naj sprejme take začasne ukrepe, ki so morda potrebni, da se prepreči nepopravljiva škoda, ki bi jo lahko utrpeli žrtve domnevne kršitve. Kadar odbor uveljavlja odločanje po lastni presoji, to ne pomeni, da odloča o dopustnosti ali vsebini zadeve iz sporočila.

5. Odbor obvestila po tem členu proučuje na zaprtih sejah. Avtorja obvestila obvesti o odgovorih, ki jih je podala država pogodbenica. Kadar se odbor odloči dokončati postopek, sporoči svoje mnenje državi pogodbenici in avtorju obvestila.

32. člen

Država pogodbenica te konvencije lahko kadar koli izjavi, da priznava pristojnost odbora, da prejema in obravnava obvestila, v katerih država pogodbenica zatrjuje, da druga država pogodbenica ne izpolnjuje svojih obveznosti iz te konvencije. Odbor ne sprejema obvestil, ki se nanašajo na državo pogodbenico, ki ni dala take izjave, ali obvestil države pogodbenice, ki ni dala take izjave.

33. člen

1. Če odbor dobi zanesljive informacije, ki kažejo, da država pogodbenica hudo krši določbe te konvencije, lahko po posvetovanju z državo pogodbenico zaprosi enega ali več svojih članov, da jo brez odlašanja obiščejo in poročajo odboru.

2. Odbor pisno uradno obvesti državo pogodbenico o nameravani organizaciji obiska in navede sestavo delegacije in namen obiska. Država pogodbenica odboru odgovori v razumnem roku.

3. Na utemeljeno zahtevo države pogodbenice se odbor lahko odloči za preložitve ali odpoved obiska.

4. Če država pogodbenica soglaša z obiskom, skupaj z odborom opredelita podrobnosti obiska, država pogodbenica pa zagotovi odboru vse možnosti, ki so potrebne za njegovo uspešno izvedbo.

5. Po končanem obisku odbor državo pogodbenico obvesti o svojih pripombah in priporočilih.

34. člen

Če odbor dobi informacije, za katere meni, da vsebujejo utemeljene navedbe o prisilnih izginotjih, ki se obširno in sistemsko dogajajo na ozemlju pod jurisdikcijo države pogodbenice, lahko zadevo, potem ko je od države pogodbenice zahteval vse ustrezne informacije o stanju, po generalnem sekretarju Organizacije združenih narodov predloži v prednostno obravnavo Generalni skupščini Organizacije združenih narodov.

35. člen

1. Odbor je pristojen izključno za prisilna izginotja, ki so se začela po začetku veljavnosti te konvencije.

2. Če država postane pogodbenica te konvencije po začetku njene veljavnosti, se obveznosti te države do odbora nanašajo samo na prisilna izginotja, ki so se začela po začetku veljavnosti te konvencije za to državo.

Article 36

1. The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

2. Before an observation on a State Party is published in the annual report, the State Party concerned shall be informed in advance and shall be given reasonable time to answer. This State Party may request the publication of its comments or observations in the report.

PART III*Article 37*

Nothing in this Convention shall affect any provisions which are more conducive to the protection of all persons from enforced disappearance and which may be contained in:

- (a) The law of a State Party;
- (b) International law in force for that State.

Article 38

1. This Convention is open for signature by all Member States of the United Nations.

2. This Convention is subject to ratification by all Member States of the United Nations. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention is open to accession by all Member States of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General.

Article 39

1. This Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the twentieth instrument of ratification or accession, this Convention shall enter into force on the thirtieth day after the date of the deposit of that State's instrument of ratification or accession.

Article 40

The Secretary-General of the United Nations shall notify all States Members of the United Nations and all States which have signed or acceded to this Convention of the following:

- (a) Signatures, ratifications and accessions under article 38;
- (b) The date of entry into force of this Convention under article 39.

Article 41

The provisions of this Convention shall apply to all parts of federal States without any limitations or exceptions.

Article 42

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation or by the procedures expressly provided for in this Convention shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. A State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a declaration.

36. člen

1. Odbor predloži letno poročilo o svojih dejavnostih na podlagi te konvencije državam pogodbenicam in Generalni skupščini Organizacije združenih narodov.

2. Pred objavo pripomb glede države pogodbenice v letnem poročilu se ta država pogodbenica o tem vnaprej obvesti in se določi razumni rok za odgovor. Ta država pogodbenica lahko zahteva, da se njeni komentarji ali pripombe objavijo v poročilu.

III. DEL*37. člen*

Nobena določba v tej konvenciji ne vpliva na določbe, ki prispevajo k še boljši zaščiti vseh oseb pred prisilnim izginotjem in jih lahko vsebujejo:

- (a) zakonodaja države pogodbenice;
- (b) mednarodno pravo, veljavno za to državo.

38. člen

1. Konvencija je na voljo za podpis vsem državam članicam Organizacije združenih narodov.

2. Konvencijo je treba ratificirati v vseh državah članicah Organizacije združenih narodov. Listine o ratifikaciji hrani generalni sekretar Organizacije združenih narodov.

3. Konvencija je na voljo za pristop vsem državam članicam Organizacije združenih narodov. Pristopi se z deponiranjem listine o pristopu pri generalnem sekretarju.

39. člen

1. Konvencija začne veljati trideseti dan po dnevu deponiranja dvajsete listine o ratifikaciji ali pristopu pri generalnem sekretarju Organizacije združenih narodov.

2. Za vsako državo, ki pristopi h konvenciji ali jo ratificira po deponiranju dvajsete listine o ratifikaciji ali pristopu, začne ta konvencija veljati trideseti dan po deponiranju njene listine o ratifikaciji ali pristopu.

40. člen

Generalni sekretar Organizacije združenih narodov vse države članice Organizacije združenih narodov in vse države, ki so podpisale to konvencijo ali so k njej pristopile, uradno obvesti o:

- (a) podpisih, ratifikacijah in pristopih po 38. členu;
- (b) dnevu začetka veljavnosti te konvencije po 39. členu.

41. člen

Določbe te konvencije veljajo brez kakršne koli omejitve ali izjeme za vse dele zveznih držav.

42. člen

1. Vsi morebitni spori med dvema ali več državami pogodbenicami zaradi razlage ali uporabe te konvencije, ki jih ni mogoče rešiti s pogajanjem ali izrecno predvidenimi postopki v tej konvenciji, se na zahtevo ene od njih predložijo arbitraži. Če se v šestih mesecih od datuma zahteve za arbitražo pogodbenice ne morejo dogovoriti o organizaciji arbitraže, lahko katera koli od teh pogodbenic spor predloži Meddržavnemu sodišču z zahtevo, ki je v skladu s statutom sodišča.

2. Ob podpisu ali ratifikaciji te konvencije ali ob pristopu k njej lahko država izjavi, da zaveze iz prvega odstavka tega člena ne bo upoštevala. Drugih držav pogodbenic prvi odstavek tega člena ne zavezuje do države pogodbenice, ki je dala tako izjavo.

3. Any State Party having made a declaration in accordance with the provisions of paragraph 2 of this article may at any time withdraw this declaration by notification to the Secretary-General of the United Nations.

Article 43

This Convention is without prejudice to the provisions of international humanitarian law, including the obligations of the High Contracting Parties to the four Geneva Conventions of 12 August 1949 and the two Additional Protocols thereto of 8 June 1977, or to the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

Article 44

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to this Convention with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations.

2. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all the States Parties for acceptance.

3. An amendment adopted in accordance with paragraph 2 of this article shall enter into force when two thirds of the States Parties to this Convention have accepted it in accordance with their respective constitutional processes.

4. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendment which they have accepted.

Article 45

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

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States referred to in article 38.

3. Vsaka država pogodbenica, ki da izjavo v skladu z določbami drugega odstavka tega člena, lahko tako izjavo kadar koli umakne z uradnim obvestilom, poslanim generalnemu sekretarju Organizacije združenih narodov.

43. člen

Ta konvencija ne vpliva na določbe mednarodnega humanitarnega prava, vključno z obveznostmi visokih pogodbenic štirih ženevskih konvencij z dne 12. avgusta 1949 in dveh dodatnih protokolov k štirim konvencijam z dne 8. junija 1977, ali na možnost, ki jo ima vsaka država pogodbenica, da pooblasti Mednarodni odbor Rdečega križa za obisk krajev odvzema prostosti v razmerah, ki niso zajete z mednarodnim humanitarnim pravom.

44. člen

1. Vsaka država pogodbenica te konvencije lahko predlaga spremembo in jo vloži pri generalnem sekretarju Organizacije združenih narodov. Generalni sekretar predlagano spremembo pošlje državam pogodbenicam te konvencije skupaj s prošnjo, naj se izrečejo, ali podpirajo konferenco držav pogodbenic za obravnavanje predloga in glasovanja o njem. Če se v štirih mesecih od dne takega obvestila vsaj tretjina držav pogodbenic izreče za konferenco, jo generalni sekretar skliče pod pokroviteljstvom Organizacije združenih narodov.

2. Vsako spremembo, ki jo sprejme dvetretjinska večina držav pogodbenic, navzočih na konferenci in pri glasovanju, generalni sekretar Organizacije združenih narodov predloži v sprejetje vsem državam pogodbenicam.

3. Sprememba, sprejeta v skladu z drugim odstavkom tega člena, začne veljati, ko jo potrdita dve tretjini držav pogodbenic te konvencije v skladu s svojimi ustavnimi postopki.

4. Ko spremembe začnejo veljati, so zavezujoče za vse tiste države pogodbenice, ki so jih sprejele, preostale države pogodbenice pa še vedno zavezujejo določbe te konvencije in vse prejšnje spremembe, ki so jih že sprejele.

45. člen

1. Izvirnik te konvencije, katere besedila v arabskem, kitajskem, angleškem, francoskem, ruskem in španskem jeziku so enako verodostojna, se deponira pri generalnem sekretarju Organizacije združenih narodov.

2. Generalni sekretar Organizacije združenih narodov pošlje overjene kopije te konvencije vsem državam, navedenim v 38. členu.

3. člen

Republika Slovenija ob deponiranju listine o ratifikaciji konvencije generalnemu sekretarju Združenih narodov poda naslednji izjavi: »V skladu z 31. členom Mednarodne konvencije o zaščiti vseh oseb pred prisilnim izginotjem Republika Slovenija izjavlja, da priznava pristojnost odbora po navedenem členu, da sprejema in obravnava sporočila, ki jih prejme od posameznikov ali v imenu posameznikov, ki so pod pristojnostjo Republike Slovenije in zatrjujejo, da so žrtve kršitev določb konvencije s strani Republike Slovenije.«

»V skladu z 32. členom Mednarodne konvencije o zaščiti vseh oseb pred prisilnim izginotjem Republika Slovenija izjavlja, da priznava pristojnost odbora po navedenem členu, da sprejema in obravnava sporočila, v katerih posamezna država trdi, da druga država pogodbenica ne izpolnjuje svojih obveznosti na podlagi te konvencije.«

4. člen

Za izvajanje konvencije skrbi ministrstvo, pristojno za pravosodje, v sodelovanju z ministrstvom, pristojnim za notranje zadeve, ministrstvom, pristojnim za družino in socialne zadeve, ministrstvom, pristojnim za obrambo in nosilci obveščevalno-varnostne dejavnosti.

5. člen

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

Št. 212-02/21-2/10

Ljubljana, dne 26. oktobra 2021

EPA 1637-IV

Državni zbor
Republike Slovenije
Igor Zorčič
predsednik

Obvestila o začetku oziroma prenehanju veljavnosti mednarodnih pogodb

39. Obvestilo o začetku veljavnosti Sporazuma med Vlado Republike Slovenije in Vlado Italijanske Republike o urejanju vojnih grobišč

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, 80/10 – ZUTD, 31/15 in 30/18 – ZKZaš) Ministrstvo za zunanje zadeve

s p o r o č a,

da je 4. novembra 1997 začel veljati Sporazum med Vlado Republike Slovenije in Vlado Italijanske Republike o urejanju vojnih grobišč, podpisan v Ljubljani 29. oktobra 1996 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 10/97 (Uradni list RS, št. 35/97).

Ljubljana, dne 21. oktobra 2021

Ministrstvo za zunanje zadeve
Republike Slovenije

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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 in 60/17 – ZPVPJN-B) Uradni list RS objavlja

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V Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 13/21 (Uradni list RS, št. 162/21) z dne 8. 10. 2021 je prišlo do napake pri tekočem oštevilčenju strani, in sicer se ne nadaljuje oštevilčenje iz predhodne izdaje. Oštevilčenje strani v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 13/21 se pravilno začne s stranjo 217 in konča s stranjo 234.

Št. 13/2021
Ljubljana, dne 3. novembra 2021

Denis Stroligo
direktor

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