

13. Zakon o ratifikaciji Konvencije Sveta Evrope proti trgovini s človeškimi organi (MKSETČO)

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 Sveta Evrope proti trgovini s človeškimi organi (MKSETČO)

Razlašam Zakon o ratifikaciji Konvencije Sveta Evrope proti trgovini s človeškimi organi (MKSETČO), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 16. marca 2022.

Št. 003-02-1/2022-81

Ljubljana, dne 24. marca 2022

Borut Pahor
predsednik
Republike Slovenije

Z A K O N

O RATIFIKACIJI KONVENCIJE SVETA EVROPE PROTI TRGOVINI S ČLOVEŠKIMI ORGANI (MKSETČO)

1. člen

Ratificira se Konvencija Sveta Evrope proti trgovini s človeškimi organi, sprejeta v Santiagu de Compostela 25. marca 2015.

2. člen

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

COUNCIL OF EUROPE CONVENTION AGAINST TRAFFICKING IN HUMAN ORGANS

Preamble

The member States of the Council of Europe and the other signatories to this Convention;

Bearing in mind the Universal Declaration of Human Rights, proclaimed by the United Nations General Assembly on 10 December 1948, and the Convention for the Protection of Human Rights and Fundamental Freedoms (1950, ETS No. 5);

Bearing in mind the Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (1997, ETS No. 164) and the Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin (2002, ETS No. 186);

Bearing in mind the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime (2000) and the Council of Europe Convention on Action against Trafficking in Human Beings (2005, CETS No. 197);

KONVENCIJA SVETA EVROPE PROTI TRGOVINI S ČLOVEŠKIMI ORGANI

Preambula

Države članice Sveta Evrope in druge podpisnice te konvencije so se

ob upoštevanju Splošne deklaracije človekovih pravic, ki jo je Generalna skupščina Organizacije združenih narodov razglasila 10. decembra 1948, in Konvencije o varstvu človekovih pravic in temeljnih svoboščin (1950, ETS št. 5);

ob upoštevanju Konvencije o varstvu človekovih pravic in dostojanstva človeškega bitja v zvezi z uporabo biologije in medicine: Konvencija o človekovih pravicah v zvezi z biomedicino (1997, ETS št. 164) ter Dodatnega protokola o presaditvi človeških organov in tkiv h Konvenciji o človekovih pravicah v zvezi z biomedicino (2002, ETS št. 186);

ob upoštevanju Protokola za preprečevanje, zatiranje in kaznovanje trgovine z ljudmi, zlasti ženskami in otroki, ki dopolnjuje Konvencijo Združenih narodov proti mednarodnemu organiziranemu kriminalu (2000), in Konvencije Sveta Evrope o ukrepanju proti trgovini z ljudmi (2005, CETS št. 197);

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

Considering that the trafficking in human organs violates human dignity and the right to life and constitutes a serious threat to public health;

Determined to contribute in a significant manner to the eradication of the trafficking in human organs through the introduction of new offences supplementing the existing international legal instruments in the field of trafficking in human beings for the purpose of the removal of organs;

Considering that the purpose of this Convention is to prevent and combat trafficking in human organs, and that the implementation of the provisions of the Convention concerning substantive criminal law should be carried out taking into account its purpose and the principle of proportionality;

Recognising that, to efficiently combat the global threat posed by the trafficking in human organs, close international co-operation between Council of Europe member States and non-member States alike should be encouraged,

Have agreed as follows:

Chapter I – Purposes, scope and use of terms

Article 1 – Purposes

1 The purposes of this Convention are:

- a to prevent and combat the trafficking in human organs by providing for the criminalisation of certain acts;
- b to protect the rights of victims of the offences established in accordance with this Convention;
- c to facilitate co-operation at national and international levels on action against the trafficking in human organs.

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

Article 2 – Scope and use of terms

1 This Convention applies to the trafficking in human organs for purposes of transplantation or other purposes, and to other forms of illicit removal and of illicit implantation.

2 For the purposes of this Convention, the term:

- “trafficking in human organs” shall mean any illicit activity in respect of human organs as prescribed in Article 4, paragraph 1 and Articles 5, 7, 8 and 9 of this Convention;
- “human organ” shall mean a differentiated part of the human body, formed by different tissues, that maintains its structure, vascularisation and capacity to develop physiological functions with a significant level of autonomy. A part of an organ is also considered to be an organ if its function is to be used for the same purpose as the entire organ in the human body, maintaining the requirements of structure and vascularisation.

Article 3 – Principle of non-discrimination

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

Chapter II – Substantive Criminal Law

Article 4 – Illicit removal of human organs

1 Each Party shall take the necessary legislative and other measures to establish as a criminal offence under its domestic law, when committed intentionally, the removal of human organs from living or deceased donors:

ob upoštevanju dejstva, da je cilj Sveta Evrope doseči večjo enotnost med njegovimi članicami;

ob upoštevanju, da trgovina s človeškimi organi krši človeško dostojanstvo in pravico do življenja ter resno ogroža javno zdravje;

odločene, da pomembno prispevajo k izkoreninjenju trgovanja s človeškimi organi z uvedbo novih kaznivih dejanj, kar dopolnjuje obstoječe mednarodne pravne akte na področju trgovine z ljudmi zaradi odvzema organov;

ob upoštevanju, da je namen te konvencije preprečevanje trgovine s človeškimi organi in boj proti njej ter da je treba pri izvajanju določb konvencije, ki se nanašajo na materialno kazensko pravo, upoštevati njen namen in načelo sorazmernosti;

ob zavedanju, da je treba za učinkovit boj proti svetovni nevarnosti, ki jo pomeni trgovina s človeškimi organi, spodbujati tesno mednarodno sodelovanje med članicami in nečlanicami Sveta Evrope,

dogovorile o naslednjem:

I. poglavje – Namen, področje uporabe in pomen izrazov

1. člen – Namen

1 Namen te konvencije je:

- a preprečevanje trgovine s človeškimi organi in boj proti njej z določitvijo nekaterih dejanj za kazniva;
- b varstvo pravic žrtev kaznivih dejanj, opredeljenih v skladu s to konvencijo;
- c omogočanje sodelovanja na državni in mednarodni ravni pri ukrepanju proti trgovini s človeškimi organi.

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

2. člen – Področje uporabe in pomen izrazov

1 Ta konvencija se uporablja za trgovino s človeškimi organi zaradi presaditve ali drugih namenov in za druge oblike nedovoljenega odvzema ali nedovoljene vsaditve.

2 V tej konvenciji izraz:

- “trgovina s človeškimi organi” pomeni vsako nedovoljeno dejavnost v zvezi s človeškimi organi, kakor predpisujejo prvi odstavek 4. člena ter 5., 7., 8. in 9. člen te konvencije;
- “človeški organ” pomeni diferenciran del človeškega telesa, sestavljen iz različnih tkiv, ki ima lastno strukturo, žilje in sposobnost razvoja fizioloških funkcij z znatno stopnjo avtonomije. Za organ se šteje tudi del organa, če je njegova funkcija taka, da se v človeškem telesu uporabi za enak namen kot cel organ in se ohranijo zahteve glede strukture in žilja.

3. člen – Načelo nediskriminacije

Pogodbenice zagotavljajo izvajanje določb te konvencije, predvsem ukrepov za varstvo pravic žrtev, brez razlikovanja na kateri koli podlagi, kot je spol, rasa, barva kože, jezik, starost, vera, politično ali drugo prepričanje, narodnost ali družbeni izvor, pripadnost narodni manjšini, premoženje, rojstvo, spolna usmerjenost, zdravstveno stanje, invalidnost ali druge okoliščine.

II. poglavje – Materialno kazensko pravo

4. člen – Nedovoljeni odvzem človeških organov

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi v svojem notranjem pravu kot kaznivo dejanje določi naklepni odvzem človeških organov živemu ali mrtvemu darovalcu:

a where the removal is performed without the free, informed and specific consent of the living or deceased donor, or, in the case of the deceased donor, without the removal being authorised under its domestic law;

b where, in exchange for the removal of organs, the living donor, or a third party, has been offered or has received a financial gain or comparable advantage;

c where in exchange for the removal of organs from a deceased donor, a third party has been offered or has received a financial gain or comparable advantage.

2 Any State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply paragraph 1. a of this article to the removal of human organs from living donors, in exceptional cases and in accordance with appropriate safeguards or consent provisions under its domestic law. Any reservation made under this paragraph shall contain a brief statement of the relevant domestic law.

3 The expression "financial gain or comparable advantage" shall, for the purpose of paragraph 1, b and c, not include compensation for loss of earnings and any other justifiable expenses caused by the removal or by the related medical examinations, or compensation in case of damage which is not inherent to the removal of organs.

4 Each Party shall consider taking the necessary legislative or other measures to establish as a criminal offence under its domestic law the removal of human organs from living or deceased donors where the removal is performed outside of the framework of its domestic transplantation system, or where the removal is performed in breach of essential principles of national transplantation laws or rules. If a Party establishes criminal offences in accordance with this provision, it shall endeavour to apply also Articles 9 to 22 to such offences.

Article 5 – Use of illicitly removed organs for purposes of implantation or other purposes than implantation

Each Party shall take the necessary legislative and other measures to establish as a criminal offence under its domestic law, when committed intentionally, the use of illicitly removed organs, as described in Article 4, paragraph 1, for purposes of implantation or other purposes than implantation.

Article 6 – Implantation of organs outside of the domestic transplantation system or in breach of essential principles of national transplantation law

Each Party shall consider taking the necessary legislative or other measures to establish as a criminal offence under its domestic law, when committed intentionally, the implantation of human organs from living or deceased donors where the implantation is performed outside of the framework of its domestic transplantation system, or where the implantation is performed in breach of essential principles of national transplantation laws or rules. If a Party establishes criminal offences in accordance with this provision, it shall endeavour to apply also Articles 9 to 22 to such offences.

Article 7 – Illicit solicitation, recruitment, offering and requesting of undue advantages

1 Each Party shall take the necessary legislative and other measures to establish as a criminal offence under its domestic law, when committed intentionally, the solicitation and recruitment of an organ donor or a recipient, where carried out for financial gain or comparable advantage for the person soliciting or recruiting, or for a third party.

a če se odvzem opravi brez svobodne, obveščene in posebne privolitve živega ali mrtvega darovalca ali odvzema pri mrtvem darovalcu notranje pravo ne dovoljuje;

b če je bila živemu darovalcu ali tretji strani ponujena premoženjska korist ali primerljiva ugodnost ali je živi darovalec ali tretja stran prejela premoženjsko korist ali primerljivo ugodnost v zameno za odvzem organov;

c če je bila tretji strani ponujena premoženjska korist ali primerljiva ugodnost ali je prejela premoženjsko korist ali primerljivo ugodnost v zameno za odvzem organov mrtvemu darovalcu.

2 Vsaka država ali Evropska unija lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju ali odobritvi z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, izjavi, da si pridržuje pravico, da v izjemnih primerih in v skladu z ustreznimi jamstvi ali določbami o privolitvi po svojem notranjem pravu ne uporablja točke a prvega odstavka tega člena za odvzem človeških organov živemu darovalcu. Vsak pridržek po tem odstavku mora vsebovati kratko navedbo ustreznega notranjega prava.

3 Izraz "premoženjska korist ali primerljiva ugodnost" za namene točk b in c prvega odstavka ne vključuje nadomestila za izgubo zaslužka in vseh drugih utemeljenih stroškov, nastalih zaradi odvzema ali s tem povezanih zdravniških pregledov, ali nadomestila zaradi škode, ki ni povezana z odvzemanjem organov.

4 Vsaka pogodbenica prouči možnosti za sprejetje potrebnih zakonodajnih ali drugih ukrepov, s katerimi v svojem notranjem pravu kot kaznivo dejanje določi odvzem človeških organov živemu ali mrtvemu darovalcu, če se ta opravi izven državnega sistema za presaditve ali se pri njem kršijo temeljna načela notranjih zakonov ali pravil o presaditvah. Če pogodbenica določi kazniva dejanja v skladu s to določbo, si za ta kazniva dejanja prizadeva uporabljati tudi 9. do 22. člen.

5. člen – Uporaba nedovoljeno odvzetih organov za vsaditev ali druge namene

Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi v svojem notranjem pravu kot kaznivo dejanje določi naklepno uporabo nedovoljeno odvzetih organov po prvem odstavku 4. člena za vsaditev ali druge namene.

6. člen – Vsaditev organov, ki poteka izven državnega sistema za presaditve ali krši temeljna načela notranje zakonodaje o presaditvah

Vsaka pogodbenica prouči možnosti za sprejetje potrebnih zakonodajnih ali drugih ukrepov, s katerimi v svojem notranjem pravu kot kaznivo dejanje določi naklepno vsaditev človeških organov živega ali mrtvega darovalca, če se ta opravi izven državnega sistema za presaditve ali se pri njej kršijo temeljna načela notranjih zakonov ali pravil o presaditvah. Če pogodbenica določi kazniva dejanja v skladu s to določbo, si za ta kazniva dejanja prizadeva uporabljati tudi 9. do 22. člen.

7. člen – Nedovoljeno nagovarjanje, novačenje, ponujanje in zahtevanje neupravičene ugodnosti

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi v svojem notranjem pravu kot kaznivo dejanje določi naklepno nagovarjanje in novačenje darovalca organa ali prejemnika, če se to opravlja zaradi premoženjske koristi ali primerljive ugodnosti za osebo, ki nagovarja ali novači, ali za tretjo stran.

2 Each Party shall take the necessary legislative and other measures to establish as a criminal offence, when committed intentionally, the promising, offering or giving by any person, directly or indirectly, of any undue advantage to healthcare professionals, its public officials or persons who direct or work for private sector entities, in any capacity, with a view to having a removal or implantation of a human organ performed or facilitated, where such removal or implantation takes place under the circumstances described in Article 4, paragraph 1, or Article 5 and where appropriate Article 4, paragraph 4 or Article 6.

3 Each Party shall take the necessary legislative and other measures to establish as a criminal offence, when committed intentionally, the request or receipt by healthcare professionals, its public officials or persons who direct or work for private sector entities, in any capacity, of any undue advantage with a view to performing or facilitating the performance of a removal or implantation of a human organ, where such removal or implantation takes place under the circumstances described in Article 4, paragraph 1 or Article 5 and where appropriate Article 4, paragraph 4 or Article 6.

Article 8 – Preparation, preservation, storage, transportation, transfer, receipt, import and export of illicitly removed human organs

Each Party shall take the necessary legislative and other measures to establish as a criminal offence under its domestic law, when committed intentionally:

a the preparation, preservation, and storage of illicitly removed human organs as described in Article 4, paragraph 1, and where appropriate Article 4, paragraph 4;

b the transportation, transfer, receipt, import and export of illicitly removed human organs as described in Article 4, paragraph 1, and where appropriate Article 4, paragraph 4.

Article 9 – Aiding or abetting and attempt

1 Each Party shall take the necessary legislative and other measures to establish as criminal offences, when committed intentionally, aiding or abetting the commission of any of the criminal offences established in accordance with this Convention.

2 Each Party shall take the necessary legislative and other measures to establish as a criminal offence the intentional attempt to commit any of the criminal offences established in accordance with this Convention.

3 Any State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply, or to apply only in specific cases or conditions, paragraph 2 to offences established in accordance with Article 7 and Article 8.

Article 10 – Jurisdiction

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

a in its territory; or
b on board a ship flying the flag of that Party; or

c on board an aircraft registered under the laws of that Party; or

d by one of its nationals; or

e by a person who has his or her habitual residence in its territory.

2 Each Party shall endeavour to take the necessary legislative or other measures to establish jurisdiction over any offence established in accordance with this Convention where the offence is committed against one of its nationals or a person who has his or her habitual residence in its territory.

2 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi določi kot kaznivo dejanje, če katera koli oseba naklepno neposredno ali posredno kakor koli obljublja, ponuja ali daje kakršne koli neupravičene ugodnosti zdravstvenim delavcem, njenim javnim uslužbencem ali osebam, ki vodijo osebe zasebnega prava ali delajo zanje, zato da bi se izvedel ali olajšal odvzem ali vsaditev človeškega organa, če tak odvzem ali vsaditev poteka v okoliščinah, določenih v prvem odstavku 4. člena ali 5. členu, kadar je to ustrezno, pa po četrtem odstavku 4. člena ali 6. členu.

3 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi določi kot kaznivo dejanje, če zdravstveni delavci, njeni javni uslužbenci ali osebe, ki vodijo osebe zasebnega prava ali delajo zanje, naklepno kakor koli zahtevajo ali prejmejo kakršne koli neupravičene ugodnosti, zato da bi opravili ali olajšali odvzem ali vsaditev človeškega organa, če tak odvzem ali vsaditev poteka v okoliščinah, določenih v prvem odstavku 4. člena ali 5. členu, kadar je to ustrezno, pa po četrtem odstavku 4. člena ali 6. členu.

8. člen – Priprava, ohranjanje, shranjevanje, prevoz, prenos, prejem, uvoz in izvoz nedovoljeno odvzetih človeških organov

Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi v svojem notranjem pravu kot kaznivo dejanje določi naklepno:

a pripravo, ohranjanje in shranjevanje nedovoljeno odvzetih človeških organov, kakor je določeno v prvem odstavku 4. člena, in kadar je to ustrezno, v četrtem odstavku 4. člena;

b prevoz, prenos, prejem, uvoz in izvoz nedovoljeno odvzetih človeških organov, kakor je določeno v prvem odstavku 4. člena, in kadar je to ustrezno, v četrtem odstavku 4. člena.

9. člen – Pomoč, napeljevanje in poskus

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi kot kaznivi dejanji, kadar sta storjeni naklepno, določi pomoč pri in napeljevanje k storitvi katerega koli kaznivega dejanja, opredeljenega v skladu s to konvencijo.

2 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi kot kaznivo dejanje določi naklepni poskus storitve katerega koli kaznivega dejanja, opredeljenega v skladu s to konvencijo.

3 Vsaka država ali Evropska unija lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju ali odobritvi z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, izjavi, da si pridržuje pravico, da za kazniva dejanja, določena v skladu s 7. in 8. členom, ne uporablja drugega odstavka ali ga uporablja samo v posebnih primerih ali pod posebnimi pogoji.

10. člen – Pristojnost

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi določi svojo pristojnost za katero koli kaznivo dejanje, opredeljeno v skladu s to konvencijo, če:

a je storjeno na njenem ozemlju ali
b je storjeno na ladji, ki plove pod zastavo te pogodbenice, ali

c je storjeno na zrakoplovu, registriranem v skladu z zakonodajo te pogodbenice, ali

d ga stori njen državljan ali

e ga stori oseba z običajnim prebivališčem na njenem ozemlju.

2 Vsaka pogodbenica si prizadeva za sprejetje potrebnih zakonodajnih ali drugih ukrepov, s katerimi določi svojo pristojnost za katero koli kaznivo dejanje, opredeljeno v skladu s to konvencijo, kadar je kaznivo dejanje storjeno proti njemu državljanu ali osebi z običajnim prebivališčem na njenem ozemlju.

3 Any State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraph 1. d and e of this article.

4 For the prosecution of the offences established in accordance with this Convention, each Party shall take the necessary legislative or other measures to ensure that its jurisdiction as regards paragraphs 1. d and e of this article is not subordinated to the condition that the prosecution can only be initiated following a report from the victim or the laying of information by the State of the place where the offence was committed.

5 Any State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases paragraph 4 of this article.

6 Each Party shall take the necessary legislative or other measures to establish jurisdiction over the offences established in accordance with this Convention, in cases where an alleged offender is present on its territory and it does not extradite him or her to another State, solely on the basis of his or her nationality.

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

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

Article 11 – Corporate liability

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

a a power of representation of the legal person;
b an authority to take decisions on behalf of the legal person;

c an authority to exercise control within the legal person.

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

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

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

Article 12 – Sanctions and measures

1 Each Party shall take the necessary legislative and other measures to ensure that the offences established in accordance with this Convention are punishable by effective, proportionate and dissuasive sanctions. These sanctions shall include, for offences established in accordance with Article 4, paragraph 1 and, where appropriate, Article 5 and Articles 7 to 9, when committed by natural persons, penalties involving deprivation of liberty that may give rise to extradition.

2 Each Party shall take the necessary legislative and other measures to ensure that legal persons held liable in accordance with Article 11 are subject to effective, proportionate and dissuasive sanctions, including criminal or non-criminal monetary sanctions, and may include other measures, such as:

3 Vsaka država ali Evropska unija lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju ali odobritvi z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, izjavi, da si pridržuje pravico, da ne uporablja pravil o pristojnosti, določenih v točkah d in e prvega odstavka tega člena, ali jih uporablja samo v posebnih primerih ali pod posebnimi pogoji.

4 Za pregon kaznivih dejanj, opredeljenih v skladu s to konvencijo, vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da njena pristojnost glede točk d in e prvega odstavka tega člena ni odvisna od pogoja, da se pregon lahko začne le na podlagi prijave žrtve ali informacij, ki jih da država kraja, v katerem je bilo kaznivo dejanje storjeno.

5 Vsaka država ali Evropska unija lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju ali odobritvi z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, izjavi, da si pridržuje pravico, da ne uporablja četrtega odstavka tega člena ali ga uporablja samo v posebnih primerih.

6 Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi določi svojo pristojnost za kazniva dejanja, opredeljena v skladu s to konvencijo, kadar je domnevni storilec na njenem ozemlju in ga ne izroči drugi državi izključno na podlagi njegovega državljanstva.

7 Kadar pristojnost za domnevno kaznivo dejanje, opredeljeno v skladu s to konvencijo, uveljavlja več kakor ena pogodbenica, se udeležene pogodbenice po potrebi posvetujejo, da ugotovijo najprimernejšo pristojnost za pregon.

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

11. člen – Odgovornost pravnih oseb

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi, da pravne osebe lahko odgovarjajo za kazniva dejanja, ki so opredeljena v skladu s to konvencijo, kadar jih v njihovo korist samostojno ali kot del organa pravne osebe stori fizična oseba, ki ima v njej vodilni položaj na podlagi:

a pravice zastopanja pravne osebe;
b pooblastila za odločanje v imenu pravne osebe;

c pooblastila za opravljanje nadzora v pravni osebi.

2 Poleg primerov iz prvega odstavka tega člena vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi, da lahko odgovarja pravna oseba, kadar je pomanjkljiv nadzor ali kontrola, ki jo opravlja fizična oseba iz prvega odstavka, omogočila, da je njej podrejena fizična oseba storila kaznivo dejanje, opredeljeno v skladu s to konvencijo, v korist te pravne osebe.

3 V skladu s pravnimi načeli pogodbenice je odgovornost pravne osebe lahko kazenska, civilna ali upravna.

4 Taka odgovornost ne vpliva na kazensko odgovornost fizičnih oseb, ki so storile kaznivo dejanje.

12. člen – Sankcije in ukrepi

1 Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da se kazniva dejanja, opredeljena v skladu s to konvencijo, kaznujejo z učinkovitimi, sorazmernimi in odvračilnimi sankcijami. Za kazniva dejanja, ki so določena v skladu s prvim odstavkom 4. člena, in kadar je to ustrezno, 5. členom in 7. do 9. členom, kadar jih storijo fizične osebe, te sankcije vključujejo kazni odvzema prostosti, kar je lahko povod za izročitev.

2 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi, da se pravne osebe, ki so odgovorne v skladu z 11. členom, kaznujejo z učinkovitimi, sorazmernimi in odvračilnimi sankcijami, ki vključujejo kazenske ali nekazenske denarne sankcije in lahko tudi druge ukrepe, kot so:

a temporary or permanent disqualification from exercising commercial activity;

b placing under judicial supervision;

c a judicial winding-up order.

3 Each Party shall take the necessary legislative and other measures to:

a permit seizure and confiscation of proceeds of the criminal offences established in accordance with this Convention, or property whose value corresponds to such proceeds;

b enable the temporary or permanent closure of any establishment used to carry out any of the criminal offences established in accordance with this Convention, without prejudice to the rights of *bona fide* third parties, or deny the perpetrator, temporarily or permanently, in conformity with the relevant provisions of domestic law, the exercise of a professional activity relevant to the commission of any of the offences established in accordance with this Convention.

Article 13 – Aggravating circumstances

Each Party shall take the necessary legislative and other measures to ensure that the following circumstances, in so far as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of domestic law, be taken into consideration as aggravating circumstances in determining the sanctions in relation to the offences established in accordance with this Convention:

a the offence caused the death of, or serious damage to the physical or mental health of, the victim;

b the offence was committed by a person abusing his or her position;

c the offence was committed in the framework of a criminal organisation;

d the perpetrator has previously been convicted of offences established in accordance with this Convention;

e the offence was committed against a child or any other particularly vulnerable person.

Article 14 – Previous convictions

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

Chapter III – Criminal Procedural Law

Article 15 – Initiation and continuation of proceedings

Each Party shall take the necessary legislative and other measures to ensure that investigations or prosecution of offences established in accordance with this Convention should not be subordinate to a complaint and that the proceedings may continue even if the complaint is withdrawn.

Article 16 – Criminal investigations

Each Party shall take the necessary legislative and other measures, in conformity with the principles of its domestic law, to ensure effective criminal investigation and prosecution of offences established in accordance with this Convention.

Article 17 – International co-operation

1 The Parties shall co-operate with each other, in accordance with the provisions of this Convention and in pursuance of relevant applicable international and regional instruments and arrangements agreed on the basis of uniform or reciprocal legislation and their domestic law, to the widest extent possible, for the purpose of investigations or proceedings concerning the offences established in accordance with this Convention, including seizure and confiscation.

a začasna ali stalna prepoved opravljanja gospodarske dejavnosti;

b uvedba sodnega nadzora;

c sodno odrejeno prenehanje.

3 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, da:

a omogoči zaseg in odvzem premoženjske koristi, pridobljene s kaznivimi dejanji, opredeljenimi v skladu s to konvencijo, ali premoženja, katerega vrednost ustreza tej premoženjski koristi;

b omogoči začasno ali trajno zaprtje katerega koli prostora, uporabljenega za katero koli kaznivo dejanje, opredeljeno v skladu s to konvencijo, brez poseganja v pravice dobrovernih tretjih oseb, ali v skladu z ustreznimi določbami notranjega prava storilcu začasno ali trajno onemogoči opravljanje poslovne dejavnosti, pomembne za storitev katerega koli kaznivega dejanja, opredeljenega v skladu s to konvencijo.

13. člen – Obteževalne okoliščine

Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi, da se lahko naslednje okoliščine, če niso že eden od znakov kaznivega dejanja, v skladu z ustreznimi določbami notranjega prava obravnavajo kot obteževalne okoliščine pri določanju sankcij v zvezi s kaznivimi dejanji, opredeljenimi v skladu s to konvencijo:

a kaznivo dejanje je povzročilo smrt ali resno prizadelo telesno ali duševno zdravje žrtve;

b kaznivo dejanje je storila oseba, ki je zlorabila svoj položaj;

c kaznivo dejanje je storila hudodelska združba;

d storilec je bil predhodno že obsojen za kazniva dejanja, opredeljena v skladu s to konvencijo;

e kaznivo dejanje je bilo storjeno zoper otroka ali drugo posebej ranljivo osebo.

14. člen – Predkaznovanost

Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi predvidi možnost, da se pri določanju sankcij upoštevajo pravnomočne sodbe, ki jih je v zvezi s kaznivimi dejanji, opredeljenimi v skladu s to konvencijo, izdala druga pogodbenica.

III. poglavje – Kazensko procesno pravo

15. člen – Začetek in nadaljevanje postopka

Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi, da preiskovanje ali pregon kaznivih dejanj, opredeljenih v skladu s to konvencijo, ni odvisen od prijave in se postopek lahko nadaljuje tudi, če se prijava umakne.

16. člen – Kazenske preiskave

Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi v skladu z načeli svojega notranjega prava zagotovi učinkovito kazensko preiskavo in pregon kaznivih dejanj, opredeljenih v skladu s to konvencijo.

17. člen – Mednarodno sodelovanje

1 Pogodbenice v skladu z določbami te konvencije in na podlagi ustreznih veljavnih mednarodnih in regionalnih aktov in dogovorov, ki temeljijo na poenoteni ali vzajemni zakonodaji in njihovem notranjem pravu, v največji mogoči meri sodelujejo pri preiskavah ali postopkih v zvezi s kaznivimi dejanji, opredeljenimi v skladu s to konvencijo, vključno z zasegom in odvzemom.

2 The Parties shall co-operate to the widest extent possible in pursuance of the relevant applicable international, regional and bilateral treaties on extradition and mutual legal assistance in criminal matters concerning the offences established in accordance with this Convention.

3 If a Party that makes extradition or mutual legal assistance in criminal matters conditional on the existence of a treaty receives a request for extradition or legal assistance in criminal matters from a Party with which it has no such a treaty, it may, acting in full compliance with its obligations under international law and subject to the conditions provided for by the domestic law of the requested Party, consider this Convention as the legal basis for extradition or mutual legal assistance in criminal matters in respect of the offences established in accordance with this Convention.

Chapter IV – Protection measures

Article 18 – Protection of victims

Each Party shall take the necessary legislative and other measures to protect the rights and interests of victims of offences established in accordance with this Convention, in particular by:

a ensuring that victims have access to information relevant to their case and which is necessary for the protection of their health and other rights involved;

b assisting victims in their physical, psychological and social recovery;

c providing, in its domestic law, for the right of victims to compensation from the perpetrators.

Article 19 – Standing of victims in criminal proceedings

1 Each Party shall take the necessary legislative and other measures to protect the rights and interests of victims at all stages of criminal investigations and proceedings, in particular by:

a informing them of their rights and the services at their disposal and, upon request, the follow-up given to their complaint, the charges retained, the state of the criminal proceedings, unless in exceptional cases the proper handling of the case may be adversely affected by such notification, and their role therein as well as the outcome of their cases;

b enabling them, in a manner consistent with the procedural rules of domestic law, to be heard, to supply evidence and have their views, needs and concerns presented, directly or through an intermediary, and considered;

c providing them with appropriate support services so that their rights and interests are duly presented and taken into account;

d providing effective measures for their safety, as well as that of their families, from intimidation and retaliation.

2 Each Party shall ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings.

3 Each Party shall ensure that victims have access to legal aid, in accordance with domestic law and provided free of charge where warranted, when it is possible for them to have the status of parties to criminal proceedings.

4 Each Party shall take the necessary legislative and other measures to ensure that victims of an offence established in accordance with this Convention committed in the territory of a Party other than the one where they reside can make a complaint before the competent authorities of their State of residence.

5 Each Party shall provide, by means of legislative or other measures, in accordance with the conditions provided for by its domestic law, the possibility for groups, foundations, associations or governmental or non-governmental organisations, to assist and/or support the victims with their consent during criminal proceedings concerning the offences established in accordance with this Convention.

2 Pogodbenice v največji mogoči meri sodelujejo med seboj pri uresničevanju ustreznih veljavnih mednarodnih, regionalnih in dvostranskih pogodb o izročitvi in medsebojni pravni pomoči v kazenskih zadevah v zvezi s kaznivimi dejanji, opredeljenimi v skladu s to konvencijo.

3 Če pogodbenica, ki za izročitev ali medsebojno pravno pomoč v kazenskih zadevah kot pogoj postavlja obstoj mednarodne pogodbe, od druge pogodbenice, s katero nima sklenjene take mednarodne pogodbe, prejme zaprosilo za izročitev ali pravno pomoč, lahko v popolni skladnosti s svojimi obveznostmi po mednarodnem pravu in pod pogoji, ki jih določa notranje pravo zaprosene pogodbenice, to konvencijo šteje za pravno podlago za izročitev ali medsebojno pravno pomoč v kazenskih zadevah v zvezi s kaznivimi dejanji, opredeljenimi v skladu s to konvencijo.

IV. poglavje – Zaščitni ukrepi

18. člen – Zaščita žrtev

Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zaščiti pravice in koristi žrtev kaznivih dejanj, opredeljenih v skladu s to konvencijo, zlasti z:

a zagotavljanjem, da imajo žrtve dostop do informacij, ki se nanašajo na njihov primer in so potrebne za zaščito njihovega zdravja ter drugih s tem povezanih pravic;

b pomočjo žrtvam pri njihovem telesnem, duševnem in socialnem okrevanju;

c zagotavljanjem, v svojem notranjem pravu, pravice žrtvam, da od storilcev dobijo odškodnino.

19. člen – Položaj žrtev v kazenskih postopkih

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zaščiti pravice in koristi žrtev v vseh fazah kazenskih preiskav in postopkov, zlasti z:

a obveščanjem žrtev o njihovih pravicah in storitvah, ki so jim na voljo, na zaprosilo pa tudi o ukrepanju v zvezi z njihovo prijavo, o obtožbah, stanju kazenskega postopka, razen če v izjemnih primerih tako obvestilo lahko negativno vpliva na ustrezno obravnavanje zadeve, njihovi vlogi v njem ter o rešitvi njihovega primera;

b omogočanjem žrtvam, da so, v skladu s postopkovnimi pravili notranjega prava, zaslišane, predložijo dokaze in se njihovi pogledi, potrebe in skrbi, neposredno ali po tretji osebi, predstavijo in obravnavajo;

c zagotavljanjem dostopa žrtvam do ustreznih podpornih služb, da so njihove pravice in koristi ustrezno predstavljene in upoštevane;

d zagotavljanjem učinkovitih ukrepov za varnost žrtev in varnost njihovih družin pred ustrahovanjem in maščevanjem.

2 Vsaka pogodbenica zagotovi, da imajo žrtve že od svojega prvega stika s pristojnimi organi dostop do informacij o ustreznih sodnih in upravnih postopkih.

3 Vsaka pogodbenica zagotovi, da imajo žrtve v skladu z notranjim pravom dostop do pravne pomoči, če je upravičeno, brezplačne, kadar so lahko stranke v kazenskem postopku.

4 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi, da žrtve kaznivega dejanja, ki je opredeljeno v skladu s to konvencijo in ni bilo storjeno na ozemlju pogodbenice, v kateri imajo prebivališče, lahko vložijo prijavo pri pristojnih organih države prebivališča.

5 Vsaka pogodbenica z zakonodajnimi ali drugimi ukrepi pod pogoji, ki jih določa njeno notranje pravo, skupinam, ustanovam, združenjem ali vladnim ali nevladnim organizacijam zagotovi možnost, da v kazenskih postopkih, ki se nanašajo na kazniva dejanja, opredeljena v skladu s to konvencijo, žrtvam z njihovo privolitvijo pomagajo in/ali jim zagotavljajo podporo.

Article 20 – Protection of witnesses

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

2 Paragraph 1 of this article shall also apply to victims insofar as they are witnesses.

Chapter V – Prevention measures**Article 21 – Measures at domestic level**

1 Each Party shall take the necessary legislative and other measures to ensure:

a the existence of a transparent domestic system for the transplantation of human organs;

b equitable access to transplantation services for patients;

c adequate collection, analysis and exchange of information related to the offences covered by this Convention in cooperation between all relevant authorities.

2 With the aim of preventing and combatting trafficking in human organs, each Party shall take measures, as appropriate:

a to provide information or strengthen training for health-care professionals and relevant officials in the prevention of and combat against trafficking in human organs;

b to promote awareness-raising campaigns addressed to the general public about the unlawfulness and dangers of trafficking in human organs.

3 Each Party shall take the necessary legislative and other measures to prohibit the advertising of the need for, or availability of human organs, with a view to offering or seeking financial gain or comparable advantage.

Article 22 – Measures at international level

The Parties shall, to the widest extent possible, cooperate with each other in order to prevent trafficking in human organs. In particular, the Parties shall:

a report to the Committee of the Parties at its request on the number of cases of trafficking in human organs within their respective jurisdictions;

b designate a national contact point for the exchange of information pertaining to trafficking in human organs.

Chapter VI – Follow-up mechanism**Article 23 – Committee of the Parties**

1 The Committee of the Parties shall be composed of representatives of the Parties to the Convention.

2 The Committee of the Parties shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within a period of one year following the entry into force of this Convention for the tenth signatory having ratified it. It shall subsequently meet whenever at least one third of the Parties or the Secretary General so requests.

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

4 The Committee of the Parties shall be assisted by the Secretariat of the Council of Europe in carrying out its functions.

5 A contracting Party which is not a member of the Council of Europe shall contribute to the financing of the Committee of the Parties in a manner to be decided by the Committee of Ministers upon consultation of that Party.

Article 24 – Other representatives

1 The Parliamentary Assembly of the Council of Europe, the European Committee on Crime Problems (CDPC), as well as other relevant Council of Europe intergovernmental or scientific committees, shall each appoint a representative to the Committee of the Parties in order to contribute to a multisectoral and multidisciplinary approach.

20. člen – Zaščita prič

1 Vsaka pogodbenica v okviru svojih sredstev in pod pogoji, ki jih določa njeno notranje pravo, zagotovi učinkovito zaščito prič v kazenskih postopkih, ki pričajo o kaznivih dejanjih po tej konvenciji, ter po potrebi tudi njihovih sorodnikov in drugih bližnjih oseb pred morebitnim maščevanjem ali ustrahovanjem.

2 Prvi odstavek tega člena se uporablja tudi za žrtve, kadar nastopajo kot prič.

V. poglavje – Preprečevalni ukrepi**21. člen – Ukrepi na državni ravni**

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, da zagotovi:

a pregleden državni sistem za presaditve človeških organov;

b pravičen dostop do storitev presaditve za bolnike;

c ustrezno zbiranje, analizo in izmenjavo informacij v zvezi s kaznivimi dejanji, ki jih zajema ta konvencija, ob sodelovanju med vsemi zadevnimi organi.

2 Za preprečevanje trgovine s človeškimi organi in boj proti njej vsaka pogodbenica po potrebi sprejme ukrepe, da:

a zagotovi informacije ali okrepi usposabljanje zdravstvenih delavcev in ustreznih uslužbencev za preprečevanje trgovine s človeškimi organi in boj proti njej;

b spodbuja kampanje za ozaveščanje splošne javnosti o nezakonitosti in nevarnostih trgovine s človeškimi organi.

3 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi prepove oglaševanje potreb po človeških organih ali njihove razpoložljivosti z namenom ponujanja ali iskanja premoženjske koristi ali primerljive ugodnosti.

22. člen – Ukrepi na mednarodni ravni

Pogodbenice med seboj sodelujejo v največji mogoči meri, da preprečijo trgovino s človeškimi organi. Pogodbenice zlasti:

a poročajo Odboru pogodbenic na njegovo zaprosilo o številu primerov trgovine s človeškimi organi znotraj njihove pristojnosti;

b imenujejo nacionalno točko za stike za izmenjavo informacij o trgovini s človeškimi organi.

VI. poglavje – Mehanizem za spremljanje**23. člen – Odbor pogodbenic**

1 Odbor pogodbenic sestavljajo predstavniki pogodbenic konvencije.

2 Odbor pogodbenic skliče generalni sekretar Sveta Evrope. Prvi sestanek je v enem letu po začetku veljavnosti te konvencije za deseto podpisnico, ki jo je ratificirala. Zatem se sestaja na zahtevo najmanj ene tretjine pogodbenic ali generalnega sekretarja.

3 Odbor pogodbenic sprejme svoj poslovnik.

4 Odboru pogodbenic pri opravljanju njegovih nalog pomaga Sekretariat Sveta Evrope.

5 Pogodbenica, ki ni članica Sveta Evrope, prispeva k financiranju Odbora pogodbenic tako, kot po posvetu z njo odloči Odbor ministrov.

24. člen – Drugi predstavniki

1 Parlamentarna skupščina Sveta Evrope, Evropski odbor za vprašanja kriminalitete (CDPC) in drugi ustrezni medvladni ali znanstveni odbori Sveta Evrope imenujejo po enega predstavnika v Odbor pogodbenic, da se zagotovi večsektorski in večdisciplinarni način delovanja.

2 The Committee of Ministers may invite other Council of Europe bodies to appoint a representative to the Committee of the Parties after consulting the latter.

3 Representatives of relevant international bodies may be admitted as observers to the Committee of the Parties following the procedure established by the relevant rules of the Council of Europe.

4 Representatives of relevant official bodies of the Parties may be admitted as observers to the Committee of the Parties following the procedure established by the relevant rules of the Council of Europe.

5 Representatives of civil society, and in particular non-governmental organisations, may be admitted as observers to the Committee of the Parties following the procedure established by the relevant rules of the Council of Europe.

6 In the appointment of representatives under paragraphs 2 to 5 of this article, a balanced representation of the different sectors and disciplines shall be ensured.

7 Representatives appointed under paragraphs 1 to 5 above shall participate in meetings of the Committee of the Parties without the right to vote.

Article 25 – Functions of the Committee of the Parties

1 The Committee of the Parties shall monitor the implementation of this Convention. The rules of procedure of the Committee of the Parties shall determine the procedure for evaluating the implementation of this Convention, using a multisectoral and multidisciplinary approach.

2 The Committee of the Parties shall also facilitate the collection, analysis and exchange of information, experience and good practice between States to improve their capacity to prevent and combat trafficking in human organs. The Committee may avail itself of the expertise of other relevant Council of Europe committees and bodies.

3 Furthermore, the Committee of the Parties shall, where appropriate:

a facilitate the effective use and implementation of this Convention, including the identification of any problems that may arise and the effects of any declaration or reservation made under this Convention;

b express an opinion on any question concerning the application of this Convention and facilitate the exchange of information on significant legal, policy or technological developments;

c make specific recommendations to Parties concerning the implementation of this Convention.

4 The European Committee on Crime Problems (CDPC) shall be kept periodically informed regarding the activities mentioned in paragraphs 1, 2 and 3 of this article.

Chapter VII – Relationship with other international instruments

Article 26 – Relationship with other international instruments

1 This Convention shall not affect the rights and obligations arising from the provisions of other international instruments to which Parties to the present Convention are Parties or shall become Parties and which contain provisions on matters governed by this Convention.

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

2 Odbor ministrov lahko po posvetovanju z Odborom pogodbenic povabi druge organe Sveta Evrope, da v Odbor pogodbenic imenujejo svojega predstavnika.

3 Predstavniki ustreznih mednarodnih organov so lahko sprejeti v Odbor pogodbenic kot opazovalci v skladu s postopkom, določenim na podlagi ustreznih pravil Sveta Evrope.

4 Predstavniki ustreznih uradnih organov pogodbenic so lahko sprejeti v Odbor pogodbenic kot opazovalci v skladu s postopkom, določenim na podlagi ustreznih pravil Sveta Evrope.

5 Predstavniki civilne družbe, zlasti nevladnih organizacij, so lahko sprejeti v Odbor pogodbenic kot opazovalci v skladu s postopkom, določenim na podlagi ustreznih pravil Sveta Evrope.

6 Pri imenovanju predstavnikov v skladu z drugim do petim odstavkom tega člena je treba zagotoviti uravnoteženo zastopnost različnih sektorjev in strok.

7 Predstavniki, imenovani v skladu s prvim do petim odstavkom zgoraj, na sestankih Odbora pogodbenic sodelujejo brez pravice glasovanja.

25. člen – Naloge Odbora pogodbenic

1 Odbor pogodbenic nadzira izvajanje te konvencije. Postopek za ocenjevanje izvajanja te konvencije je določen v poslovniku Odbora pogodbenic na podlagi večsektorskega in večdisciplinarnega načina delovanja.

2 Odbor pogodbenic omogoča lažje zbiranje, analizo in izmenjavo informacij, izkušenj in dobrih praks med državami, da se poveča njihova zmogljivost za preprečevanje trgovine s človeškimi organi in boj proti njej. Odbor lahko uporabi strokovno znanje drugih ustreznih odborov in organov Sveta Evrope.

3 Poleg tega Odbor pogodbenic, kadar je primerno:

a spodbuja učinkovito uporabo in izvajanje te konvencije, vključno s prepoznavanjem kakršnih koli težav, ki bi lahko nastale, in vplivov katere koli izjave ali pridržka, danega po tej konvenciji;

b izrazi mnenje o kakršnem koli vprašanju v zvezi z uporabo te konvencije in spodbuja izmenjavo informacij o pomembnih dogajanjih na področju prava, politik ali tehnologije;

c daje pogodbenicam posebna priporočila v zvezi z izvajanjem te konvencije.

4 Evropski odbor za vprašanja kriminalitete (CDPC) se redno obvešča o dejavnostih iz prvega, drugega in tretjega odstavka tega člena.

VII. poglavje – Razmerje do drugih mednarodnih aktov

26. člen – Razmerje do drugih mednarodnih aktov

1 Ta konvencija ne vpliva na pravice in obveznosti, ki izhajajo iz določb drugih mednarodnih aktov, katerih pogodbenice so ali bodo postale pogodbenice te konvencije in ki vsebujejo določbe o zadevah, ki jih ureja ta konvencija.

2 Pogodbenice konvencije lahko med seboj sklepajo dvostranske ali večstranske sporazume o zadevah, ki jih obravnava ta konvencija, da dopolnijo ali krepijo njene določbe ali omogočijo lažjo uporabo v njej vsebovanih načel.

Chapter VIII – Amendments to the Convention**Article 27 – Amendments**

1 Any proposal for an amendment to this Convention presented by a Party shall be communicated to the Secretary General of the Council of Europe and forwarded by him or her to the member States of the Council of Europe, the non-member States enjoying observer status with the Council of Europe, the European Union, and any State having been invited to sign this Convention.

2 Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems (CDPC) and other relevant Council of Europe intergovernmental or scientific committees, which shall submit to the Committee of the Parties their opinions on that proposed amendment.

3 The Committee of Ministers of the Council of Europe shall consider the proposed amendment and the opinion submitted by the Committee of Parties and, after having consulted the Parties to this Convention that are not members of the Council of Europe, may adopt the amendment by the majority provided for in Article 20.d of the Statute of the Council of Europe.

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

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

Chapter IX – Final clauses**Article 28 – Signature and entry into force**

1 This Convention shall be open for signature by the member States of the Council of Europe, the European Union and the non-member States which enjoy observer status with the Council of Europe. It shall also be open for signature by any other non-member State of the Council of Europe upon invitation by the Committee of Ministers. The decision to invite a non-member State to sign the Convention shall be taken by the majority provided for in Article 20.d of the Statute of the Council of Europe, and by unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers. This decision shall be taken after having obtained the unanimous agreement of the other States/European Union having expressed their consent to be bound by this Convention.

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

3 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five signatories, including at least three member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph.

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

Article 29 – Territorial application

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

VIII. poglavje – Spremembe konvencije**27. člen – Spremembe**

1 Vsak predlog za spremembo te konvencije, ki ga pripravi pogodbenica, se sporoči generalnemu sekretarju Sveta Evrope, ki ga pošlje državam članicam Sveta Evrope, državam nečlanicam, ki imajo status opazovalke pri Svetu Evrope, Evropski uniji in vsaki državi, ki je bila povabljenka k podpisu te konvencije.

2 Vsaka sprememba, ki jo predlaga pogodbenica, se sporoči Evropskemu odboru za vprašanja kriminalitete (CDPC) in drugim ustreznim medvladnim ali znanstvenim odborom Sveta Evrope, ki svoje mnenje o predlagani spremembi sporočijo Odboru pogodbenic.

3 Odbor ministrov Sveta Evrope obravnava predlagano spremembo in mnenje Odbora pogodbenic ter po posvetovanju s pogodbenicami te konvencije, ki niso članice Sveta Evrope, lahko sprejme spremembo z večino glasov, kakor je predvideno v odstavku d 20. člena Statuta Sveta Evrope.

4 Besedilo vsake spremembe, ki jo sprejme Odbor ministrov v skladu s tretjim odstavkom tega člena, se pošlje pogodbenicam v sprejetje.

5 Vsaka sprememba, sprejeta v skladu s tretjim odstavkom tega člena, začne veljati prvi dan meseca po poteku enega meseca po dnevu, ko so vse pogodbenice obvestile generalnega sekretarja, da so jo sprejele.

IX. poglavje – Končne določbe**28. člen – Podpis in začetek veljavnosti**

1 Ta konvencija je na voljo za podpis državam članicam Sveta Evrope, Evropski uniji in državam nečlanicam, ki imajo status opazovalke pri Svetu Evrope. Na povabilo Odbora ministrov je na voljo za podpis tudi vsaki drugi državi, ki ni članica Sveta Evrope. Odločitev, da se država nečlanica povabi k podpisu konvencije, se sprejme z večino, določeno v odstavku d 20. člena Statuta Sveta Evrope, in s soglasjem vseh predstavnikov držav pogodbenic, ki imajo pravico sodelovati v Odboru ministrov. Ta odločitev se sprejme po pridobitvi soglasja vseh drugih držav/Evropske unije, ki so že izrazile privolitev, da jih ta konvencija zavezuje.

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

3 Ta konvencija začne veljati prvi dan meseca po poteku treh mesecev po dnevu, ko je pet podpisnic, vključno z najmanj tremi državami članicami Sveta Evrope, v skladu z določbami prejšnjega odstavka izrazilo svojo privolitev, da jih konvencija zavezuje.

4 Za vsako državo ali Evropsko unijo, ki pozneje izrazi svojo privolitev, da jo konvencija zavezuje, ta začne veljati prvi dan meseca po poteku treh mesecev po dnevu deponiranja njene listine o ratifikaciji, sprejetju ali odobritvi.

29. člen – Ozemeljska uporaba

1 Vsaka država ali Evropska unija lahko ob podpisu ali deponiranju listine o ratifikaciji, sprejetju ali odobritvi določi ozemlje ali ozemlja, na katerih se ta konvencija uporablja.

2 Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

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

Article 30 – Reservations

1 Any State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, declare that it avails itself of one or more of the reservations provided for in Articles 4, paragraph 2; 9, paragraph 3; 10, paragraphs 3 and 5.

2 Any State or the European Union may also, at the time of signature or when depositing its instrument of ratification, acceptance or approval, declare that it reserves the right to apply the Article 5 and Article 7, paragraphs 2 and 3, only when the offences are committed for purposes of implantation, or for purposes of implantation and other purposes as specified by the Party.

3 No other reservation may be made.

4 Each Party which has made a reservation may, at any time, withdraw it entirely or partially by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect from the date of the receipt of such notification by the Secretary General.

Article 31 – Dispute settlement

The Committee of the Parties will follow in close cooperation with the European Committee on Crime Problems (CDPC) and other relevant Council of Europe intergovernmental or scientific committees the application of this Convention and facilitate, when necessary, the friendly settlement of all difficulties related to its application.

Article 32 – Denunciation

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

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

Article 33 – Notification

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the non-member States enjoying observer status with the Council of Europe, the European Union, and any State having been invited to sign this Convention in accordance with the provisions of Article 28, of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance or approval;
- c any date of entry into force of this Convention in accordance with Article 28;
- d any amendment adopted in accordance with Article 27 and the date on which such an amendment enters into force;
- e any reservation and withdrawal of reservation made in pursuance of Article 30;

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

3 Vsaka izjava, dana na podlagi prejšnjih dveh odstavkov, se lahko za vsako ozemlje, ki je navedeno v njej, umakne z uradnim obvestilom, naslovljenim na generalnega sekretarja Sveta Evrope. Umik začne veljati prvi dan meseca po poteku treh mesecev po dnevu, ko generalni sekretar prejme tako uradno obvestilo.

30. člen – Pridrški

1 Vsaka država ali Evropska unija lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju ali odobritvi izjavi, da bo uporabila enega ali več pridrzkov, predvidenih v drugem odstavku 4. člena, tretjem odstavku 9. člena ter tretjem in petem odstavku 10. člena.

2 Vsaka država ali Evropska unija lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju ali odobritvi izjavi tudi, da si pridržuje pravico, da uporabi 5. člen ter drugi in tretji odstavek 7. člena le, če so kazniva dejanja storjena za namene vsaditve ali za namene vsaditve in druge namene, ki jih določa pogodbenica.

3 Drugi pridrški niso mogoči.

4 Vsaka pogodbenica, ki je dala pridržek, ga lahko kadar koli v celoti ali deloma umakne z uradnim obvestilom, naslovljenim na generalnega sekretarja Sveta Evrope. Umik začne veljati z dnem, ko generalni sekretar prejme tako uradno obvestilo.

31. člen – Reševanje sporov

Odbor pogodbenic bo v tesnem sodelovanju z Evropskim odborom za vprašanja kriminalitete (CDPC) in drugimi ustreznimi medvladnimi ali znanstvenimi odbori Sveta Evrope spremljal uporabo te konvencije ter po potrebi omogočil prijateljsko reševanje vseh težav, povezanih z njeno uporabo.

32. člen – Odpoved

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

2 Odpoved začne veljati prvi dan meseca po poteku treh mesecev po dnevu, ko generalni sekretar prejme uradno obvestilo.

33. člen – Uradno obvestilo

Generalni sekretar Sveta Evrope države članice Sveta Evrope, države nečlanice, ki imajo status opazovalke pri Svetu Evrope, Evropsko unijo in vsako državo, ki je bila povabljenka k podpisu te konvencije v skladu z določbami 28. člena, uradno obvesti o:

- a vsakem podpisu;
- b deponiranju vsake listine o ratifikaciji, sprejetju ali odobritvi;
- c vsakem datumu začetka veljavnosti te konvencije v skladu z 28. členom;
- d vsaki spremembi, sprejeti v skladu s 27. členom, in datumu začetka veljavnosti take spremembe;
- e vsakem pridršku in umiku pridrška na podlagi 30. člena;

f any denunciation made in pursuance of the provisions of Article 32;

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

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

Done in Santiago de Compostela, this 25th day of March 2015, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which enjoy observer status with the Council of Europe, to the European Union and to any State invited to sign this Convention.

f vsaki odpovedi na podlagi določb 32. člena;

g vsakem drugem dejanju, uradnem obvestilu ali sporočilu v zvezi s to konvencijo.

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

Sklenjeno v Santiagu de Compostela, dne 25. marca 2015, v angleškem in francoskem jeziku, pri čemer sta besedili enako verodostojni, v enem izvodu, ki se hrani v arhivu Sveta Evrope. Generalni sekretar Sveta Evrope pošlje overjene kopije vsaki državi članici Sveta Evrope, državam nečlanicam, ki imajo status opazovalke pri Svetu Evrope, Evropski uniji in vsaki državi, ki je bila povabljena k podpisu te konvencije.

3. člen

Republika Slovenija daje naslednja pridržka in izjavo:

»V skladu z drugim odstavkom 4. člena konvencije Republika Slovenija izjavlja, da si pridržuje pravico, da v izjemnih primerih in v skladu z ustreznimi jamstvi ali določbami o privolitvi po svojem notranjem pravu ne uporablja točke a prvega odstavka 4. člena konvencije za odvzem človeških organov živemu darovalcu.

Navedena izjema se nanaša na primere, ko v skladu z notranjim pravom privolitev v darovanje pri živem darovalcu namesto njega poda zakoniti zastopnik, in sicer za osebo, mlajšo od 18 let ali osebo, ki ni sposobna za razsojanje (šesti odstavek 8. člena Zakona o pridobivanju in presaditvi delov človeškega telesa zaradi zdravljenja, Uradni list RS, št. 56/15 in 186/21 – KZ-1I).«

»V skladu s tretjim odstavkom 10. člena konvencije Republika Slovenija izjavlja, da si pridržuje pravico, da ne uporablja pravil o pristojnosti, določenih v točki e prvega odstavka 10. člena konvencije.«

»V skladu s točko b 22. člena konvencije Republika Slovenija izjavlja, da je nacionalna kontaktna točka, pristojna za izvajanje nalog iz 22. člena konvencije, Zavod Republike Slovenije za presaditve organov in tkiv Slovenija-transplant.«

4. člen

Za izvajanje konvencije skrbi ministrstvo, pristojno za zdravje, v sodelovanju z ministrstvom, pristojnim za pravosodje, ministrstvom, pristojnim za notranje zadeve, ministrstvom, pristojnim za carinski sistem, ministrstvom, pristojnim za zunanje zadeve, in Vrhovnim državnim tožilstvom Republike Slovenije.

5. člen

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

Št. 212-05/18-8/11

Ljubljana, dne 16. marca 2022

EPA 215-VIII

Državni zbor
Republike Slovenije
Igor Zorčič
predsednik

14. Zakon o ratifikaciji Konvencije Sveta Evrope o ponarejanju medicinskih izdelkov in podobnih kaznivih dejanjih, ki ogrožajo javno zdravje (MKSEPMI)

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 Sveta Evrope o ponarejanju medicinskih izdelkov in podobnih kaznivih dejanjih, ki ogrožajo javno zdravje (MKSEPMI)**

Razglašam Zakon o ratifikaciji Konvencije Sveta Evrope o ponarejanju medicinskih izdelkov in podobnih kaznivih dejanjih, ki ogrožajo javno zdravje (MKSEPMI), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 16. marca 2022.

Št. 003-02-1/2022-82

Ljubljana, dne 24. marca 2022

Borut Pahor
predsednik
Republike Slovenije

Z A K O N**O RATIFIKACIJI KONVENCIJE SVETA EVROPE O PONAREJANJU MEDICINSKIH IZDELKOV IN PODOBNIH KAZNIVIH DEJANJIH, KI OGROŽAJO JAVNO ZDRAVJE (MKSEPMI)****1. člen**

Ratificira se Konvencija Sveta Evrope o ponarejanju medicinskih izdelkov in podobnih kaznivih dejanjih, ki ogrožajo javno zdravje, sprejeta v Moskvi 28. oktobra 2011.

2. člen

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

**COUNCIL OF EUROPE CONVENTION
ON THE COUNTERFEITING OF MEDICAL
PRODUCTS AND SIMILAR CRIMES INVOLVING
THREATS TO PUBLIC HEALTH**

Text corrected in accordance with the Committee of Ministers' decision (1151st meeting of the Ministers' Deputies, 18–19 September 2012)

Preamble

The member States of the Council of Europe and the other signatories to this Convention,

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

Noting that the counterfeiting of medical products and similar crimes by their very nature seriously endanger public health;

Recalling the Action Plan adopted at the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16–17 May 2005), which recommends the development of measures to strengthen the security of European citizens;

Bearing in mind the Universal Declaration of Human Rights, proclaimed by the United Nations General Assembly on 10 December 1948, the Convention for the Protection of Human Rights and Fundamental Freedoms (1950, ETS No. 5), the European Social Charter (1961, ETS No. 35), the Convention on the Elaboration of a European Pharmacopoeia (1964, ETS No. 50) and its Protocol (1989, ETS No. 134), the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (1997, ETS No. 164) and the Additional Protocols thereto (1998, ETS No. 168, 2002, ETS No. 186, 2005, CETS No. 195, 2008, CETS No. 203) and the Convention on Cybercrime (2001, ETS No. 185);

**KONVENCIJA SVETA EVROPE
O PONAREJANJU MEDICINSKIH IZDELKOV
IN PODOBNIH KAZNIVIH DEJANJIH,
KI OGROŽAJO JAVNO ZDRAVJE**

Besedilo, popravljeno v skladu s sklepom Odbora ministrov, sprejetim na 1151. zasedanju namestnikov ministrov 18. in 19. septembra 2012.

Uvod

Države članice Sveta Evrope in druge podpisnice te konvencije so se

ob upoštevanju, da je cilj Sveta Evrope doseči večjo enotnost med njegovimi članicami;

ob ugotovitvi, da ponarejanje medicinskih izdelkov in podobna kazniva dejanja že sama po sebi resno ogrožajo javno zdravje;

ob sklicevanju na akcijski načrt, ki je bil sprejet na tretjem vrhu voditeljev držav in vlad članic Sveta Evrope (Varšava, 16. in 17. maj 2005) ter priporoča razvoj ukrepov za krepitev varnosti evropskih državljanov;

ob upoštevanju Splošne deklaracije človekovih pravic, ki jo je Generalna skupščina Organizacije združenih narodov razglasila 10. decembra 1948, Konvencije o varstvu človekovih pravic in temeljnih svoboščin (1950, ETS št. 5), Evropske socialne listine (1961, ETS št. 35), Konvencije o izdelavi evropske farmakopeje (1964, ETS št. 50) in njenega protokola (1989, ETS št. 134), Konvencije o varstvu človekovih pravic in dostojanstva človeškega bitja v zvezi z uporabo biologije in medicine: Konvencije o človekovih pravicah v zvezi z biomedicino (1997, ETS št. 164) in dodatnih protokolov (1998, ETS št. 168, 2002, ETS št. 186, 2005, CETS št. 195, 2008, CETS št. 203) ter Konvencije o kibernetiki kriminaliteti (2001, ETS št. 185);

Also bearing in mind the other relevant work of the Council of Europe, particularly the decisions of the Committee of Ministers and work of the Parliamentary Assembly, notably Resolution AP(2001)2 concerning the pharmacist's role in the framework of health security, the replies adopted by the Committee of Ministers on 6 April 2005 and on 26 September 2007, concerning respectively, Parliamentary Assembly Recommendations 1673 (2004) on "Counterfeiting: problems and solutions" and 1794 (2007) on the "Quality of medicines in Europe", as well as relevant programmes conducted by the Council of Europe;

Having due regard to other relevant international legal instruments and programmes, conducted notably by the World Health Organisation, in particular the work of the group IMPACT, and by the European Union, as well as in the forum of the G8;

Determined to contribute effectively to the attainment of the common goal of combating crime involving counterfeiting of medical products and similar crimes involving threats to public health, by introducing notably new offences and penal sanctions relative to these offences;

Considering that the purpose of this Convention is to prevent and combat threats to public health, giving effect to the provisions of the Convention concerning substantive criminal law should be carried out taking into account its purpose and the principle of proportionality;

Considering that this Convention does not seek to address issues concerning intellectual property rights;

Taking into account the need to prepare a comprehensive international instrument which is centred on the aspects linked to prevention, protection of victims and criminal law in combating all forms of counterfeiting of medical products and similar crimes involving threats to public health, and which sets up a specific follow-up mechanism;

Recognising that, to efficiently combat the global threat posed by the counterfeiting of medical products and similar crimes, close international co-operation between Council of Europe member States and non-member States alike should be encouraged,

Have agreed as follows:

Chapter I – Object and purpose, principle of non-discrimination, scope, definitions

Article 1 – Object and purpose

1 The purpose of this Convention is to prevent and combat threats to public health by:

- a providing for the criminalisation of certain acts;
- b protecting the rights of victims of the offences established under this Convention;
- c promoting national and international co-operation.

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

Article 2 – Principle of non-discrimination

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

Article 3 – Scope

This Convention concerns medical products whether they are protected under intellectual property rights or not, or whether they are generic or not, including accessories designated to be used together with medical devices, as well as the active substances, excipients, parts and materials designated to be used in the production of medical products.

ob upoštevanju drugega pomembnega dela Sveta Evrope, zlasti sklepov Odbora ministrov in dela Parlamentarne skupščine, zlasti Resolucije AP(2001)2 o vlogi farmacevta v okviru zdravstvene varnosti, odgovorov, ki jih je sprejel Odbor ministrov 6. aprila 2005 in 26. septembra 2007, glede – v navedenem zaporedju – priporočil Parlamentarne skupščine 1673 (2004) "Ponarejanje: problemi in rešitve" in 1794 (2007) "Kakovost zdravil v Evropi", ter ustreznih programov, ki jih izvaja Svet Evrope;

ob upoštevanju drugih ustreznih mednarodnopравниh aktov in programov, ki jih izvajajo predvsem Svetovna zdravstvena organizacija, še posebej skupina IMPACT, ter Evropska unija in forum G8;

odločene učinkovito prispevati k uresničitvi skupnega cilja boja proti kriminaliteti, ki vključuje ponarejanje medicinskih izdelkov in podobna kazniva dejanja, ki ogrožajo javno zdravje, zlasti z uvedbo novih kaznivih dejanj in kazenskih sankcij v zvezi s temi kaznivimi dejanji;

glede na to, da je namen te konvencije preprečevanje groženj za javno zdravje in boj proti njim, pri čemer je treba ob izvajanju določb konvencije, ki se nanašajo na materialno kazensko pravo, upoštevati njen namen in načelo sorazmernosti;

glede na to, da ta konvencija ne obravnava vprašanj v zvezi s pravicami intelektualne lastnine;

ob upoštevanju nujnosti priprave celovitega mednarodnega akta, ki bo osredotočen na vidike preprečevanja, zaščite žrtev in kazenskopravni vidik boja proti vsem oblikam ponarejanja medicinskih izdelkov in podobnih kaznivih dejanj, ki ogrožajo javno zdravje, in ki bo vzpostavil poseben mehanizem za spremljanje;

ob zavedanju, da je treba za učinkovit boj proti svetovni nevarnosti, ki jo pomenijo ponarejanje medicinskih izdelkov in podobna kazniva dejanja, spodbujati tesno mednarodno sodelovanje med članicami in nečlanicami Sveta Evrope,

dogovorile:

I. poglavje – Predmet in namen, načelo nediskriminacije, področje uporabe in opredelitev izrazov

1. člen – Predmet in namen

1 Namen te konvencije sta preprečevanje groženj za javno zdravje in boj proti njim z:

- a zagotavljanjem določanja nekaterih dejanj za kazniva;
- b zaščito pravic žrtev kaznivih dejanj, določenih v skladu s to konvencijo;
- c zagotavljanjem sodelovanja na državni in mednarodni ravni.

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

2. člen – Načelo nediskriminacije

Pogodbenice zagotavljajo izvajanje določb te konvencije, predvsem ukrepov za zaščito pravic žrtev, brez razlikovanja na kateri koli podlagi, kot je spol, rasa, barva kože, jezik, starost, vera, politično ali drugo prepričanje, narodnost ali družbeni izvor, pripadnost narodni manjšini, premoženje, rojstvo, spolna usmerjenost, zdravstveno stanje, invalidnost ali druge okoliščine.

3. člen – Področje uporabe

Ta konvencija se nanaša na medicinske izdelke ne glede na to, ali so zavarovani v skladu s pravicami intelektualne lastnine ali ne, ali so generični ali ne, vključno z opremo, namenjeno za uporabo skupaj z medicinskimi pripomočki, ter na zdravilne učinkovine, pomožne snovi, dele in materiale, namenjene za uporabo pri izdelavi medicinskih izdelkov.

Article 4 – Definitions

For the purposes of this Convention:

a the term "medical product" shall mean medicinal products and medical devices;

b the term "medicinal product" shall mean medicines for human and veterinary use, which may be:

i any substance or combination of substances presented as having properties for treating or preventing disease in humans or animals;

ii any substance or combination of substances which may be used in or administered to human beings or animals either with a view to restoring, correcting or modifying physiological functions by exerting a pharmacological, immunological or metabolic action, or to making a medical diagnosis;

iii an investigational medicinal product;

c the term "active substance" shall mean any substance or mixture of substances that is designated to be used in the manufacture of a medicinal product, and that, when used in the production of a medicinal product, becomes an active ingredient of the medicinal product;

d the term "excipient" shall mean any substance that is not an active substance or a finished medicinal product, but is part of the composition of a medicinal product for human or veterinary use and essential for the integrity of the finished product;

e the term "medical device" shall mean any instrument, apparatus, appliance, software, material or other article, whether used alone or in combination, including the software, designated by its manufacturer to be used specifically for diagnostic and/or therapeutic purposes and necessary for its proper application, designated by the manufacturer to be used for human beings for the purpose of:

i diagnosis, prevention, monitoring, treatment or alleviation of disease;

ii diagnosis, monitoring, treatment, alleviation of or compensation for an injury or handicap;

iii investigation, replacement or modification of the anatomy or of a physiological process;

iv control of conception;

and which does not achieve its principal intended action in or on the human body by pharmacological, immunological or metabolic means, but which may be assisted in its function by such means;

f the term "accessory" shall mean an article which whilst not being a medical device is designated specifically by its manufacturer to be used together with a medical device to enable it to be used in accordance with the use of the medical device intended by the manufacturer of the medical device;

g the terms "parts" and "materials" shall mean all parts and materials constructed and designated to be used for medical devices and that are essential for the integrity thereof;

h the term "document" shall mean any document related to a medical product, an active substance, an excipient, a part, a material or an accessory, including the packaging, labeling, instructions for use, certificate of origin or any other certificate accompanying it, or otherwise directly associated with the manufacturing and/or distribution thereof;

i the term "manufacturing" shall mean:

i as regards a medicinal product, any part of the process of producing the medicinal product, or an active substance or an excipient of such a product, or of bringing the medicinal product, active substance or excipient to its final state;

ii as regards a medical device, any part of the process of producing the medical device, as well as parts or materials of such a device, including designing the device, the parts or materials, or of bringing the medical device, the parts or materials to their final state;

iii as regards an accessory, any part of the process of producing the accessory, including designing the accessory, or of bringing the accessory to its final state;

4. člen – Opredelitev izrazov

V tej konvenciji:

a izraz "medicinski izdelek" pomeni zdravila in medicinske pripomočke;

b izraz "zdravilo" pomeni zdravila za uporabo v humani in veterinarski medicini, ki so lahko:

i vsaka snov ali kombinacija snovi, ki so predstavljene z lastnostmi za zdravljenje ali preprečevanje bolezni pri ljudeh ali živalih;

ii vsaka snov ali kombinacija snovi, ki se lahko uporablja pri ljudeh ali živalih ali se daje ljudem ali živalim, da bi se prek farmakološkega, imunološkega ali presnovnega delovanja ponovno vzpostavile, izboljšale ali spremenile fiziološke funkcije ali da bi se določila diagnoza;

iii zdravilo v preskušanju;

c izraz "zdravilna učinkovina" pomeni vsako snov ali mešanico snovi, ki je namenjena za uporabo pri proizvodnji zdravila in ki potem, ko se uporabi pri izdelavi zdravila, postane aktivna sestavina tega zdravila;

d izraz "pomožna snov" pomeni vsako snov, ki ni zdravilna učinkovina ali končno zdravilo, temveč je le del sestave zdravila za uporabo v humani ali veterinarski medicini in je ključnega pomena za celovitost končnega izdelka;

e izraz "medicinski pripomoček" pomeni vsak instrument, aparat, napravo, programsko opremo, material ali drug predmet, ki je uporabljen samostojno ali v kombinaciji, vključno s programsko opremo, ki jo je njegov proizvajalec predvidel izrecno za uporabo pri diagnostiki in/ali v terapevtske namene in je potrebna za njegovo pravilno uporabo, in ki ga je proizvajalec predvidel za uporabo pri ljudeh za:

i diagnosticiranje, preprečevanje, spremljanje, zdravljenje ali lajšanje bolezni;

ii diagnosticiranje, spremljanje, zdravljenje, lajšanje ali kompenzacijo poškodbe ali prizadetosti;

iii preiskovanje, nadomeščanje ali spreminjanje anatomije ali fiziološkega procesa;

iv nadzor nad spočetjem

in ki ne dosega svojega glavnega predvidenega učinka na človeško telo ali v njem s farmakološkimi, imunološkimi ali presnovnimi sredstvi, vendar pa so ta lahko v pomoč pri njegovem delovanju;

f izraz "dodatek" pomeni predmet, ki sicer ni medicinski pripomoček, vendar pa ga je njegov proizvajalec namenil izrecno za uporabo skupaj z medicinskim pripomočkom, da omogoči njegovo uporabo na način, kot ga je predvidel proizvajalec medicinskega pripomočka;

g izraza "deli" in "materiali" pomenita vse dele in materiale, ki so izdelani in se uporabljajo za medicinske pripomočke ter so ključni za njihovo celovitost;

h izraz "dokument" pomeni vsak dokument, ki se nanaša na medicinski izdelek, zdravilno učinkovino, pomožno snov, del, material ali dodatek, vključno z ovojnino, označevanjem, navodili za uporabo, potrdilom o poreklu ali katerim koli drugim potrdilom, ki je priloženo ali kako drugače neposredno povezano z njihovo proizvodnjo in/ali distribucijo;

i izraz "proizvodnja" pomeni:

i v zvezi z zdravilom kateri koli del postopka izdelave zdravila ali zdravilne učinkovine ali pomožne snovi takega izdelka ali postopka dokončanja izdelave zdravila, zdravilne učinkovine ali pomožne snovi;

ii v zvezi z medicinskim pripomočkom kateri koli del postopka izdelave medicinskega pripomočka in delov ali materialov za tak pripomoček, vključno z načrtovanjem pripomočka, delov ali materialov, ali postopka dokončanja izdelave medicinskega pripomočka, delov ali materialov;

iii v zvezi z dodatkom kateri koli del postopka izdelave dodatka, vključno z načrtovanjem dodatka, ali postopka dokončanja izdelave dodatka;

j the term "counterfeit" shall mean a false representation as regards identity and/or source;

k the term "victim" shall mean any natural person suffering adverse physical or psychological effects as a result of having used a counterfeit medical product or a medical product manufactured, supplied or placed on the market without authorisation or without being in compliance with the conformity requirements as described in Article 8.

Chapter II – Substantive criminal law

Article 5 – Manufacturing of counterfeits

1 Each Party shall take the necessary legislative and other measures to establish as offences under its domestic law, the intentional manufacturing of counterfeit medical products, active substances, excipients, parts, materials and accessories.

2 As regards medicinal products and, as appropriate, medical devices, active substances and excipients, paragraph 1 shall also apply to any adulteration thereof.

3 Each State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply, or to apply only in specific cases or conditions, paragraph 1, as regards excipients, parts and materials, and paragraph 2, as regards excipients.

Article 6 – Supplying, offering to supply, and trafficking in counterfeits

1 Each Party shall take the necessary legislative and other measures to establish as offences under its domestic law, when committed intentionally, the supplying or the offering to supply, including brokering, the trafficking, including keeping in stock, importing and exporting of counterfeit medical products, active substances, excipients, parts, materials and accessories.

2 Each State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply, or to apply only in specific cases or conditions, paragraph 1, as regards excipients, parts and materials.

Article 7 – Falsification of documents

1 Each Party shall take the necessary legislative and other measures to establish as offences under its domestic law the making of false documents or the act of tampering with documents, when committed intentionally.

2 Each State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply, or to apply only in specific cases or conditions, paragraph 1, as regards documents related to excipients, parts and materials.

Article 8 – Similar crimes involving threats to public health

Each Party shall take the necessary legislative and other measures to establish as offences under its domestic law, when committed intentionally, in so far as such an activity is not covered by Articles 5, 6 and 7:

a the manufacturing, the keeping in stock for supply, importing, exporting, supplying, offering to supply or placing on the market of:

i medicinal products without authorisation where such authorisation is required under the domestic law of the Party; or

ii medical devices without being in compliance with the conformity requirements, where such conformity is required under the domestic law of the Party;

j izraz "ponarejanje" pomeni lažno predstavljanje glede identitete in/ali izvora;

k izraz "žrtev" pomeni vsako fizično osebo, ki utрпи neželene fizične ali duševne učinke zaradi uporabe ponarejenega medicinskega izdelka ali medicinskega izdelka, ki je bil proizveden, dobavljen ali dan na trg brez dovoljenja ali ne da bi izpolnjeval zahteve o skladnosti, kot je opisano v 8. členu.

II. poglavje – Materialno kazensko pravo

5. člen – Proizvodnja ponaredekov

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi v svojem notranjem pravu kot kazniva dejanja določi naklepno proizvodnjo ponarejenih medicinskih izdelkov, zdravilnih učinkovin, pomožnih snovi, delov, materialov in dodatkov.

2 Prvi odstavek velja tudi za kakršno koli potvarjanje zdravil, in če je to primerno, medicinskih pripomočkov, zdravilnih učinkovin in pomožnih snovi.

3 Vsaka država ali Evropska unija lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju ali odobritvi z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, izjavi, da si pridržuje pravico, da ne uporablja prvega odstavka v zvezi s pomožnimi snovmi, deli in materiali ter drugega odstavka v zvezi s pomožnimi snovmi ali da ju uporablja samo v posebnih primerih ali pod posebnimi pogoji.

6. člen – Dobava, ponudba za dobavo in trgovanje s ponareddki

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi v svojem notranjem pravu kot kazniva dejanja določi naklepno dobavo ali ponudbo za dobavo, vključno s posredništvom, trgovanjem, vključno s skladiščenjem, uvozom in izvozom ponarejenih medicinskih izdelkov, zdravilnih učinkovin, pomožnih snovi, delov, materialov in dodatkov.

2 Vsaka država ali Evropska unija lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju ali odobritvi z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, izjavi, da si pridržuje pravico, da ne uporablja prvega odstavka v zvezi s pomožnimi snovmi, deli in materiali ali da ga uporablja samo v posebnih primerih ali pod posebnimi pogoji.

7. člen – Ponarejanje dokumentov

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi v svojem notranjem pravu kot kaznivo dejanje določi naklepno izdelavo ponarejenih dokumentov ali nedovoljeno spreminjanje dokumentov.

2 Vsaka država ali Evropska unija lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju ali odobritvi z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, izjavi, da si pridržuje pravico, da ne uporablja prvega odstavka v zvezi z dokumenti, ki se nanašajo na pomožne snovi, dele in materiale, ali da ga uporablja samo v posebnih primerih ali pod posebnimi pogoji.

8. člen – Podobna kazniva dejanja, ki ogrožajo javno zdravje

Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi v svojem notranjem pravu naslednja dejanja, kadar so storjena naklepno, določi kot kazniva, če tako ravnanje ni zajeto v 5., 6. in 7. členu:

a proizvodnjo, skladiščenje za dobavo, uvažanje, izvažanje, dobavo, ponudbo za dobavo ali dajanje v promet:

i zdravil brez dovoljenja, kadar se tako dovoljenje zahteva v skladu z notranjim pravom pogodbenice, ali

ii medicinskih pripomočkov, ki ne izpolnjujejo zahtev o skladnosti, kadar se taka skladnost zahteva po notranjem pravu pogodbenice;

b the commercial use of original documents outside their intended use within the legal medical product supply chain, as specified by the domestic law of the Party.

Article 9 – Aiding or abetting and attempt

1 Each Party shall take the necessary legislative and other measures to establish as offences when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with this Convention.

2 Each Party shall take the necessary legislative and other measures to establish as an offence the intentional attempt to commit any of the offences established in accordance with this Convention.

3 Each State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply, or to apply only in specific cases or conditions, paragraph 2 to offences established in accordance with Articles 7 and 8.

Article 10 – Jurisdiction

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

- a in its territory; or
- b on board a ship flying the flag of that Party; or

c on board an aircraft registered under the laws of that Party; or

d by one of its nationals or by a person habitually residing in its territory.

2 Each Party shall take the necessary legislative and other measures to establish jurisdiction over any offence established in accordance with this Convention, when the victim of the offence is one of its nationals or a person habitually resident in its territory.

3 Each Party shall take the necessary legislative and other measures to establish jurisdiction over any offence established in accordance with this Convention, when the alleged offender is present in its territory and cannot be extradited to another Party because of his or her nationality.

4 Each State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply, or to apply only in specific cases or conditions, the jurisdiction rules laid down in paragraph 1, subparagraph d, and paragraph 2 of this article.

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

6 Without prejudice to the general rules of international law, this Convention shall not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law.

Article 11 – Corporate liability

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

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

b komercialno uporabo izvornih dokumentov zunaj njihove predvidene uporabe v zakoniti dobavni verigi medicinskih izdelkov, kot jo določa notranje pravo pogodbenice.

9. člen – Pomoč ali napeljevanje in poskus

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi kot kaznivo dejanje, kadar je storjeno naklepno, določi pomoč pri ali napeljevanje k storitvi katerega koli kaznivega dejanja, določenega v skladu s to konvencijo.

2 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi kot kaznivo dejanje določi vsak naklepen poskus storitve kaznivega dejanja, določenega v skladu s to konvencijo.

3 Vsaka država ali Evropska unija lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju ali odobritvi z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, izjavi, da si pridržuje pravico, da ne uporablja drugega odstavka za kazniva dejanja, določena v skladu s 7. in 8. členom, ali da ga uporablja samo v posebnih primerih ali pod posebnimi pogoji.

10. člen – Sodna pristojnost

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi določi svojo pristojnost za katero koli kaznivo dejanje, opredeljeno v skladu s to konvencijo, kadar:

a je storjeno na njenem ozemlju ali
b je storjeno na ladji, ki plove pod zastavo te pogodbenice, ali

c je storjeno na zrakoplovu, registriranem v skladu z zakonodajo te pogodbenice, ali

d ga stori njen državljan ali oseba z običajnim prebivališčem na njenem ozemlju.

2 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi določi svojo pristojnost za katero koli kaznivo dejanje, opredeljeno v skladu s to konvencijo, kadar je žrtev kaznivega dejanja njen državljan ali oseba z običajnim prebivališčem na njenem ozemlju.

3 Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi določi svojo pristojnost za katero koli kaznivo dejanje, opredeljeno v skladu s to konvencijo, kadar je domnevni storilec na njenem ozemlju in ga ni mogoče izročiti drugi pogodbenici na podlagi njegovega državljanstva.

4 Vsaka država ali Evropska unija lahko ob podpisu ali deponiranju svoje listine o ratifikaciji, sprejetju ali odobritvi z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, izjavi, da si pridržuje pravico, da ne uporablja pravil o sodni pristojnosti, določenih v pododstavku d prvega odstavka in v drugem odstavku tega člena, ali da jih uporablja samo v posebnih primerih ali pod posebnimi pogoji.

5 Kadar več pogodbenic uveljavlja sodno pristojnost glede domnevnega kaznivega dejanja, določenega v skladu s to konvencijo, se te pogodbenice, kadar je to primerno, posvetujejo o določitvi najprimernejše sodne pristojnosti za pregon.

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

11. člen – Odgovornost pravnih oseb

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi, da pravne osebe lahko odgovarjajo za kazniva dejanja, ki so opredeljena v skladu s to konvencijo, kadar jih v njihovo korist samostojno ali kot del organa pravne osebe stori fizična oseba, ki ima v njej vodilni položaj na podlagi:

- a pravice zastopanja pravne osebe;
- b pooblastila za odločanje v imenu pravne osebe;
- c pooblastila za opravljanje nadzora v pravni osebi.

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

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

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

Article 12 – Sanctions and measures

1 Each Party shall take the necessary legislative and other measures to ensure that the offences established in accordance with this Convention are punishable by effective, proportionate and dissuasive sanctions, including criminal or non-criminal monetary sanctions, taking account of their seriousness. These sanctions shall include, for offences established in accordance with Articles 5 and 6, when committed by natural persons, penalties involving deprivation of liberty that may give rise to extradition.

2 Each Party shall take the necessary legislative and other measures to ensure that legal persons held liable in accordance with Article 11 are subject to effective, proportionate and dissuasive sanctions, including criminal or non-criminal monetary sanctions, and may include other measures, such as:

a temporary or permanent disqualification from exercising commercial activity;

b placing under judicial supervision;

c a judicial winding-up order.

3 Each Party shall take the necessary legislative and other measures to:

a permit seizure and confiscation of:

i medical products, active substances, excipients, parts, materials and accessories, as well as goods, documents and other instrumentalities used to commit the offences established in accordance with this Convention or to facilitate their commission;

ii proceeds of these offences, or property whose value corresponds to such proceeds;

b permit the destruction of confiscated medical products, active substances, excipients, parts, materials and accessories that are the subject of an offence established under this Convention;

c take any other appropriate measures in response to an offence, in order to prevent future offences.

Article 13 – Aggravating circumstances

Each Party shall take the necessary legislative and other measures to ensure that the following circumstances, in so far as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of domestic law, be taken into consideration as aggravating circumstances in determining the sanctions in relation to the offences established in accordance with this Convention:

a the offence caused the death of, or damage to the physical or mental health of, the victim;

b the offence was committed by persons abusing the confidence placed in them in their capacity as professionals;

c the offence was committed by persons abusing the confidence placed in them as manufacturers as well as suppliers;

d the offences of supplying and offering to supply were committed having resort to means of large scale distribution, such as information systems, including the Internet;

e the offence was committed in the framework of a criminal organisation;

f the perpetrator has previously been convicted of offences of the same nature.

2 Poleg primerov iz prvega odstavka vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi, da lahko odgovarja pravna oseba, kadar je pomanjkljiv nadzor ali kontrola, ki jo opravlja fizična oseba iz prvega odstavka, omogočila, da je njej podrejena fizična oseba storila kaznivo dejanje, opredeljeno v skladu s to konvencijo, v korist te pravne osebe.

3 V skladu s pravnimi načeli pogodbenic je odgovornost pravne osebe lahko kazenska, civilna ali upravna.

4 Taka odgovornost ne vpliva na kazensko odgovornost fizičnih oseb, ki so storile kaznivo dejanje.

12. člen – Sankcije in ukrepi

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi, da se kazniva dejanja, opredeljena v skladu s to konvencijo in ob upoštevanju njihove teže, kaznujejo z učinkovitimi, sorazmernimi in odvračilnimi sankcijami, vključno s kazenskimi ali nekazenskimi denarnimi sankcijami. Za kazniva dejanja, ki so določena v skladu s 5. in 6. členom konvencije in jih storijo fizične osebe, te sankcije vključujejo kazni odvzema prostosti, kar je lahko povod za izročitev.

2 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi, da se pravne osebe, ki so odgovorne v skladu z 11. členom, kaznujejo z učinkovitimi, sorazmernimi in odvračilnimi sankcijami, ki vključujejo kazenske ali nekazenske denarne sankcije, lahko pa tudi druge ukrepe, kot so:

a začasna ali stalna prepoved opravljanja gospodarske dejavnosti;

b uvedba sodnega nadzora;

c sodno odrejeno prenehanje.

3 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, da:

a omogoči zaseg in odvzem:

i medicinskih izdelkov, zdravilnih učinkovin, pomožnih snovi, delov, materialov in dodatkov ter blaga, dokumentov in drugih pripomočkov, ki so bili uporabljeni za storitev kaznivih dejanj, opredeljenih v skladu s to konvencijo, ali so pripomogli k njihovi storitvi;

ii premoženjske koristi, pridobljene s temi kaznivimi dejanji, ali premoženja, katerega vrednost ustreza tej premoženjski koristi;

b dovoli uničenje zaseženih medicinskih izdelkov, zdravilnih učinkovin, pomožnih snovi, delov, materialov in dodatkov, ki so predmet kaznivega dejanja, opredeljenega v skladu s to konvencijo;

c sprejme druge ustrezne ukrepe kot odgovor na kaznivo dejanje, da se preprečijo kazniva dejanja v prihodnje.

13. člen – Obteževalne okoliščine

Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi, da se lahko naslednje okoliščine, če niso že eden od znakov kaznivega dejanja, v skladu z ustreznimi določbami notranjega prava obravnavajo kot obteževalne okoliščine pri določanju sankcij v zvezi s kaznivimi dejanji, opredeljenimi v skladu s to konvencijo:

a kaznivo dejanje je povzročilo smrt ali resno prizadelo telesno ali duševno zdravje žrtve;

b kaznivo dejanje je storila oseba, ki je zlorabila zaupanje, ki ga je bila deležna kot strokovnjak;

c kaznivo dejanje je storila oseba, ki je zlorabila zaupanje, ki ga je bila deležna kot proizvajalec oziroma dobavitelj;

d kazniva dejanja dobave in ponudbe za dobavo so bila storjena z dostopom do sredstev široke distribucije, kot so informacijski sistemi, vključno z internetom;

e kaznivo dejanje je storila hudodelska združba;

f storilec je bil predhodno že obsojen za istovrstna kazniva dejanja.

Article 14 – Previous convictions

Each Party shall take the necessary legislative and other measures to provide for the possibility to take into account final sentences passed by another Party in relation to the offences of the same nature when determining the sanctions.

Chapter III – Investigation, prosecution and procedural law**Article 15 – Initiation and continuation of proceedings**

Each Party shall take the necessary legislative and other measures to ensure that investigations or prosecution of offences established in accordance with this Convention should not be subordinate to a complaint and that the proceedings may continue even if the complaint is withdrawn.

Article 16 – Criminal investigations

1 Each Party shall take the necessary measures to ensure that persons, units or services in charge of criminal investigations are specialised in the field of combating counterfeiting of medical products and similar crimes involving threats to public health or that persons are trained for this purpose, including financial investigations. Such units or services shall have adequate resources.

2 Each Party shall take the necessary legislative and other measures, in conformity with the principles of its domestic law, to ensure effective criminal investigation and prosecution of offences established in accordance with this Convention, allowing, where appropriate, for the possibility for its competent authorities of carrying out financial investigations, of covert operations, controlled delivery and other special investigative techniques.

Chapter IV – Co-operation of authorities and information exchange**Article 17– National measures of co-operation and information exchange**

1 Each Party shall take the necessary legislative and other measures to ensure that representatives of health authorities, customs, police and other competent authorities exchange information and co-operate in accordance with domestic law in order to prevent and combat effectively the counterfeiting of medical products and similar crimes involving threats to public health.

2 Each Party shall endeavour to ensure co-operation between its competent authorities and the commercial and industrial sectors as regards risk management of counterfeit medical products and similar crimes involving threats to public health.

3 With due respect for the requirements of the protection of personal data, each Party shall take the necessary legislative and other measures to set up or strengthen mechanisms for:

a receiving and collecting information and data, including through contact points, at national or local levels and in collaboration with private sector and civil society, for the purpose of preventing and combating the counterfeiting of medical products and similar crimes involving threats to public health;

b making available the information and data obtained by the health authorities, customs, police and other competent authorities for the co-operation between them.

4 Each Party shall take the necessary measures to ensure that persons, units or services in charge of co-operation and information exchange are trained for this purpose. Such units or services shall have adequate resources.

Chapter V – Measures for prevention**Article 18 – Preventive measures**

1 Each Party shall take the necessary legislative and other measures to establish the quality and safety requirements of medical products.

14. člen – Predkaznovanost

Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi predvidi možnost, da se pri določanju sankcij upoštevajo pravnomočne sodbe, ki jih je v zvezi z istovrstnimi kaznivimi dejanji izrekla druga pogodbenica.

III. poglavje – Preiskovanje, pregon in procesno pravo**15. člen – Začetek in nadaljevanje postopka**

Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi, da preiskovanje ali pregon kaznivih dejanj, opredeljenih v skladu s to konvencijo, ni odvisen od prijave in da se postopek lahko nadaljuje tudi, če se prijava umakne.

16. člen – Kazenske preiskave

1 Vsaka pogodbenica sprejme potrebne ukrepe, s katerimi zagotovi, da so osebe, enote ali službe, ki vodijo kazenske preiskave, specializirane za boj proti ponarejanju medicinskih izdelkov in podobnim kaznivim dejanjem, ki ogrožajo javno zdravje, oziroma da so osebe usposobljene za ta namen, vključno s finančnimi preiskavami. Take enote ali službe morajo imeti ustrezne vire.

2 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, da v skladu z načeli svojega notranjega prava zagotovi učinkovito kazensko preiskavo in pregon kaznivih dejanj, opredeljenih v skladu s to konvencijo, in kadar je to primerno, dopusti možnost, da njeni pristojni organi izvajajo finančne preiskave, prikrite operacije, spremljajo nadzorovane pošiljke in uporabljajo druge posebne preiskovalne tehnike.

IV. poglavje – Sodelovanje organov in izmenjava podatkov**17. člen – Notranji ukrepi za sodelovanje in izmenjavo podatkov**

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi izmenjavo podatkov in sodelovanje med predstavniki zdravstvenih organov, carino, policijo in drugimi pristojnimi organi v skladu s svojim notranjim pravom za preprečevanje in učinkovit boj proti ponarejanju medicinskih izdelkov in podobnim kaznivim dejanjem, ki ogrožajo javno zdravje.

2 Vsaka pogodbenica si prizadeva zagotoviti sodelovanje med svojimi pristojnimi organi ter trgovinskim in industrijskim sektorjem glede obvladovanja tveganj v zvezi s ponarejenimi medicinskimi izdelki in podobnimi kaznivimi dejanji, ki ogrožajo javno zdravje.

3 Ob spoštovanju zahtev glede varstva osebnih podatkov vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi vzpostavi ali okrepi mehanizme za:

a sprejemanje in zbiranje informacij in podatkov, tudi prek kontaktnih točk, na državni ali lokalni ravni ter v sodelovanju z zasebnim sektorjem in civilno družbo z namenom preprečevanja ponarejanja medicinskih izdelkov in podobnih kaznivih dejanj, ki ogrožajo javno zdravje, in boja proti njim;

b dajanje na voljo informacij in podatkov, ki jih pridobijo zdravstveni organi, carina, policija in drugi pristojni organi za svoje medsebojno sodelovanje.

4 Vsaka pogodbenica sprejme potrebne ukrepe, s katerimi zagotovi, da so osebe, enote ali službe, pristojne za sodelovanje in izmenjavo podatkov, usposobljene za ta namen. Te enote ali službe morajo imeti ustrezne vire.

V. poglavje – Ukrepi za preprečevanje**18. člen – Preprečevalni ukrepi**

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi določi zahteve glede kakovosti in varnosti medicinskih izdelkov.

2 Each Party shall take the necessary legislative and other measures to ensure the safe distribution of medical products.

3 With the aim of preventing counterfeiting of medical products, active substances, excipients, parts, materials and accessories, each Party shall take the necessary measures to provide, *inter alia*, for:

a training of healthcare professionals, providers, police and customs authorities, as well as relevant regulatory authorities;

b the promotion of awareness-raising campaigns addressed to the general public providing information about counterfeit medical products;

c the prevention of illegal supplying of counterfeit medical products, active substances, excipients, parts, materials and accessories.

Chapter VI – Measures for protection

Article 19 – Protection of victims

Each Party shall take the necessary legislative and other measures to protect the rights and interests of victims, in particular by:

a ensuring that victims have access to information relevant to their case and which is necessary for the protection of their health;

b assisting victims in their physical, psychological and social recovery;

c providing, in its domestic law, for the right of victims to compensation from the perpetrators.

Article 20 – The standing of victims in criminal investigations and proceedings

1 Each Party shall take the necessary legislative and other measures to protect the rights and interests of victims at all stages of criminal investigations and proceedings, in particular by:

a informing them of their rights and the services at their disposal and, unless they do not wish to receive such information, the follow-up given to their complaint, the possible charges, the general progress of the investigation or proceedings, and their role therein as well as the outcome of their cases;

b enabling them, in a manner consistent with the procedural rules of domestic law, to be heard, to supply evidence and to choose the means of having their views, needs and concerns presented, directly or through an intermediary, and considered;

c providing them with appropriate support services so that their rights and interests are duly presented and taken into account;

d providing effective measures for their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation.

2 Each Party shall ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings.

3 Each Party shall ensure that victims have access, provided free of charge where warranted, to legal aid when it is possible for them to have the status of parties to criminal proceedings.

4 Each Party shall take the necessary legislative and other measures to ensure that victims of an offence established in accordance with this Convention committed in the territory of a Party other than the one where they reside can make a complaint before the competent authorities of their State of residence.

5 Each Party shall provide, by means of legislative or other measures, in accordance with the conditions provided for by its domestic law, the possibility for groups, foundations, associations or governmental or non-governmental organisations, to assist and/or support the victims with their consent during criminal proceedings concerning the offences established in accordance with this Convention.

2 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi varno distribucijo medicinskih izdelkov.

3 Za preprečevanje ponarejanja medicinskih izdelkov, zdravilnih učinkovin, pomožnih snovi, delov, materialov in dodatkov vsaka pogodbenica sprejme potrebne ukrepe, s katerimi med drugim zagotovi:

a usposabljanje zdravstvenih strokovnjakov, izvajalcev, policijskih in carinskih organov ter ustreznih regulativnih organov;

b spodbujanje kampanj za ozaveščanje splošne javnosti z obveščanjem o ponarejenih medicinskih izdelkih;

c preprečevanje nezakonitega razpečevanja ponarejenih medicinskih izdelkov, zdravilnih učinkovin, pomožnih snovi, delov, materialov in dodatkov.

VI. poglavje – Ukrepi za zaščito

19. člen – Zaščita žrtev

Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zaščiti pravice in koristi žrtev, zlasti z:

a zagotavljanjem, da imajo žrtve dostop do informacij, ki se nanašajo na njihov primer in so potrebne za zaščito njihovega zdravja;

b pomočjo žrtvam pri njihovem telesnem, duševnem in socialnem okrevanju;

c zagotavljanjem, v svojem notranjem pravu, pravice žrtvam, da od storilcev dobijo odškodnino.

20. člen – Položaj žrtev v kazenskih preiskavah in postopkih

1 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zaščiti pravice in koristi žrtev v vseh fazah kazenskih preiskav in postopkov, zlasti z:

a obveščanjem žrtev o njihovih pravicah in storitvah, ki so jim na voljo, in, razen če tega ne želijo, o ukrepanju v zvezi z njihovo prijavo, mogočih obtožbah, splošnem poteku preiskave ali postopkov in njihovi vlogi pri tem ter rešitvi njihovega primera;

b omogočanjem žrtvam, da so v skladu s postopkovnimi pravili notranjega prava zaslišane, predložijo dokaze ter izberejo načine, kako bodo njihovi pogledi, potrebe in skrbi neposredno ali po tretji osebi predstavljeni ter obravnavani;

c zagotavljanjem žrtvam dostop do ustreznih podpornih služb, da so njihove pravice in koristi ustrezno predstavljene in upoštewane;

d zagotavljanjem učinkovitih ukrepov za varnost žrtev ter varnost njihovih družin in prič pred ustrahovanjem in maščevanjem.

2 Vsaka pogodbenica zagotovi, da imajo žrtve že od svojega prvega stika s pristojnimi organi dostop do informacij o ustreznih sodnih in upravnih postopkih.

3 Vsaka pogodbenica zagotovi, da imajo žrtve dostop do pravne pomoči, če je upravičeno, brezplačne, kadar so lahko stranke v kazenskih postopkih.

4 Vsaka pogodbenica sprejme potrebne zakonodajne in druge ukrepe, s katerimi zagotovi, da žrtve kaznivega dejanja, ki je opredeljeno v skladu s to konvencijo in ni bilo storjeno na ozemlju pogodbenice, v kateri imajo stalno prebivališče, lahko vložijo prijavo pri pristojnih organih države stalnega prebivališča.

5 Vsaka pogodbenica z zakonodajnimi ali drugimi ukrepi pod pogoji, ki jih določa njeno notranje pravo, skupinam, ustanovam, združenjem ali vladnim ali nevladnim organizacijam zagotovi možnost, da v kazenskih postopkih, ki se nanašajo na kazniva dejanja, opredeljena v skladu s to konvencijo, žrtvam z njihovo privolitvijo pomagajo in/ali jim zagotavljajo podporo.

Chapter VII – International co-operation**Article 21 – International co-operation in criminal matters**

1 The Parties shall co-operate with each other, in accordance with the provisions of this Convention and in pursuance of relevant applicable international and regional instruments and arrangements agreed on the basis of uniform or reciprocal legislation and their domestic law, to the widest extent possible, for the purpose of investigations or proceedings concerning the offences established in accordance with this Convention, including seizure and confiscation.

2 The Parties shall co-operate to the widest extent possible in pursuance of the relevant applicable international, regional and bilateral treaties on extradition and mutual legal assistance in criminal matters concerning the offences established in accordance with this Convention.

3 If a Party that makes extradition or mutual legal assistance in criminal matters conditional on the existence of a treaty receives a request for extradition or legal assistance in criminal matters from a Party with which it has no such a treaty, it may, acting in full compliance with its obligations under international law and subject to the conditions provided for by the domestic law of the requested Party, consider this Convention as the legal basis for extradition or mutual legal assistance in criminal matters in respect of the offences established in accordance with this Convention.

Article 22 – International co-operation on prevention and other administrative measures

1 The Parties shall co-operate on protecting and providing assistance to victims.

2 The Parties shall, without prejudice to their internal reporting systems, designate a national contact point which shall be responsible for transmitting and receiving requests for information and/or co-operation in connection with the fight against counterfeiting of medical products and similar crimes involving threats to public health.

3 Each Party shall endeavour to integrate, where appropriate, prevention and combating of the counterfeiting of medical products and similar crimes involving threats to public health into assistance or development programmes provided for the benefit of third States.

Chapter VIII – Follow-up mechanism**Article 23 – Committee of the Parties**

1 The Committee of the Parties shall be composed of representatives of the Parties to the Convention.

2 The Committee of the Parties shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within a period of one year following the entry into force of this Convention for the tenth signatory having ratified it. It shall subsequently meet whenever at least one third of the Parties or the Secretary General so requests.

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

4 The Committee of the Parties shall be assisted by the Secretariat of the Council of Europe in carrying out its functions.

5 A contracting Party which is not a member of the Council of Europe shall contribute to the financing of the Committee of the Parties in a manner to be decided by the Committee of Ministers upon consultation of that Party.

Article 24 – Other representatives

1 The Parliamentary Assembly of the Council of Europe, the European Committee on Crime Problems (CDPC), as well as other relevant Council of Europe intergovernmental or scientific committees, shall each appoint a representative to the Committee of the Parties in order to contribute to a multisectoral and multidisciplinary approach.

VII. poglavje – Mednarodno sodelovanje**21. člen – Mednarodno sodelovanje v kazenskih zadevah**

1 Pogodbenice v skladu s to konvencijo in na podlagi ustreznih veljavnih mednarodnih in regionalnih aktov in dogovorov, ki temeljijo na poenoteni ali vzajemni zakonodaji, ter notranjega prava čim bolj sodelujejo med seboj pri preiskavah ali postopkih v zvezi s kaznivimi dejanji, opredeljenimi v skladu s to konvencijo, vključno z zasegom in odvzemom.

2 Pogodbenice čim bolj sodelujejo med seboj pri izvajanju ustreznih veljavnih mednarodnih, regionalnih in dvostranskih sporazumov o izročitvi in medsebojni pravni pomoči v kazenskih zadevah v zvezi s kaznivimi dejanji, opredeljenimi v skladu s to konvencijo.

3 Če pogodbenica, ki za izročitev ali medsebojno pravno pomoč v kazenskih zadevah kot pogoj postavlja obstoj mednarodne pogodbe, od druge pogodbenice, s katero nima sklenjene take mednarodne pogodbe, prejme zaprosilo za izročitev ali pravno pomoč v kazenskih zadevah, lahko, ob popolni skladnosti s svojimi obveznostmi po mednarodnem pravu in pod pogoji, ki jih določa notranje pravo zaprosilne pogodbenice, to konvencijo šteje za pravno podlago za izročitev ali medsebojno pravno pomoč v kazenskih zadevah v zvezi s kaznivimi dejanji, opredeljenimi v skladu s to konvencijo.

22. člen – Mednarodno sodelovanje pri preprečevanju in drugi upravni ukrepi

1 Pogodbenice sodelujejo pri zaščiti žrtev in pomoči žrtvam.

2 Pogodbenice, ne da bi posegale v svoje notranje sisteme poročanja, imenujejo nacionalno kontaktno točko, ki je pristojna za pošiljanje in sprejemanje zahtev za informacije in/ali sodelovanje v zvezi z bojem proti ponarejanju medicinskih izdelkov in podobnim kaznivim dejanjem, ki ogrožajo javno zdravje.

3 Vsaka pogodbenica si prizadeva, da v programe pomoči ali razvojne programe, ki so namenjeni tretjim državam, po potrebi vključi preprečevanje ponarejanja medicinskih izdelkov in podobnih kaznivih dejanj, ki ogrožajo javno zdravje, in boj proti njim.

VIII. poglavje – Mehanizem za spremljanje**23. člen – Odbor pogodbenic**

1 Odbor pogodbenic sestavljajo predstavniki pogodbenic konvencije.

2 Odbor pogodbenic skliče generalni sekretar Sveta Evrope. Prvi sestanek je v enem letu po začetku veljavnosti te konvencije za deseto podpisnico, ki jo je ratificirala. Zatem se sestaja na zahtevo najmanj ene tretjine pogodbenic ali generalnega sekretarja.

3 Odbor pogodbenic sprejme svoj poslovnik.

4 Odboru pogodbenic pri opravljanju njegovih nalog pomaga Sekretariat Sveta Evrope.

5 Država pogodbenica, ki ni članica Sveta Evrope, prispeva k financiranju Odbora pogodbenic tako, kot po posvetu z njo odloči Odbor ministrov.

24. člen – Drugi predstavniki

1 Parlamentarna skupščina Sveta Evrope, Evropski odbor za vprašanja kriminalitete (CDPC) in drugi ustrezni medvladni ali znanstveni odbori Sveta Evrope imenujejo po enega predstavnika v Odbor pogodbenic, da se zagotovi večsektorski in večdisciplinarni pristop.

2 The Committee of Ministers may invite other Council of Europe bodies to appoint a representative to the Committee of the Parties after consulting them.

3 Representatives of relevant international bodies may be admitted as observers to the Committee of the Parties following the procedure established by the relevant rules of the Council of Europe.

4 Representatives of relevant official bodies of the Parties may be admitted as observers to the Committee of the Parties following the procedure established by the relevant rules of the Council of Europe.

5 Representatives of civil society, and in particular non-governmental organisations, may be admitted as observers to the Committee of the Parties following the procedure established by the relevant rules of the Council of Europe.

6 In the appointment of representatives under paragraphs 2 to 5, a balanced representation of the different sectors and disciplines shall be ensured.

7 Representatives appointed under paragraphs 1 to 5 above shall participate in meetings of the Committee of the Parties without the right to vote.

Article 25 – Functions of the Committee of the Parties

1 The Committee of the Parties shall monitor the implementation of this Convention. The rules of procedure of the Committee of the Parties shall determine the procedure for evaluating the implementation of this Convention, using a multisectoral and multidisciplinary approach.

2 The Committee of the Parties shall also facilitate the collection, analysis and exchange of information, experience and good practice between States to improve their capacity to prevent and combat the counterfeiting of medical products and similar crimes involving threats to public health. The Committee may avail itself of the expertise of other relevant Council of Europe committees and bodies.

3 Furthermore, the Committee of the Parties shall, where appropriate:

a facilitate the effective use and implementation of this Convention, including the identification of any problems and the effects of any declaration or reservation made under this Convention;

b express an opinion on any question concerning the application of this Convention and facilitate the exchange of information on significant legal, policy or technological developments;

c make specific recommendations to Parties concerning the implementation of this Convention.

4 The European Committee on Crime Problems (CDPC) shall be kept periodically informed regarding the activities mentioned in paragraphs 1, 2 and 3 of this article.

Chapter IX – Relationship with other international instruments

Article 26 – Relationship with other international instruments

1 This Convention shall not affect the rights and obligations arising from the provisions of other international instruments to which Parties to the present Convention are Parties or shall become Parties and which contain provisions on matters governed by this Convention.

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

2 Odbor ministrov lahko po posvetovanju z Odborom pogodbenic povabi druge organe Sveta Evrope, da v Odbor pogodbenic imenujejo svojega predstavnika.

3 Predstavniki ustreznih mednarodnih organov so v Odbor pogodbenic lahko sprejeti kot opazovalci v skladu s postopkom, določenim na podlagi ustreznih pravil Sveta Evrope.

4 Predstavniki ustreznih uradnih organov pogodbenic so v Odbor pogodbenic lahko sprejeti kot opazovalci v skladu s postopkom, določenim na podlagi ustreznih pravil Sveta Evrope.

5 Predstavniki civilne družbe, zlasti nevladnih organizacij, so v Odbor pogodbenic lahko sprejeti kot opazovalci v skladu s postopkom, določenim na podlagi ustreznih pravil Sveta Evrope.

6 Pri imenovanju predstavnikov v skladu z drugim do petim odstavkom je treba zagotoviti uravnoteženo zastopnost različnih sektorjev in strok.

7 Predstavniki, imenovani v skladu s prvim do petim odstavkom zgoraj, na sestankih Odbora pogodbenic sodelujejo brez pravice glasovanja.

25. člen – Naloge Odbora pogodbenic

1 Odbor pogodbenic nadzira izvajanje te konvencije. Postopek za ocenjevanje izvajanja te konvencije je določen v poslovniku Odbora pogodbenic na podlagi večsektorskega in večdisciplinarnega pristopa.

2 Odbor pogodbenic omogoča lažje zbiranje, analizo in izmenjavo informacij, izkušenj in dobrih praks med državami, da se poveča njihova zmogljivost za preprečevanje ponarejanja medicinskih izdelkov in podobnih kaznivih dejanj, ki ogrožajo javno zdravje, in boj proti njim. Odbor lahko uporabi strokovno znanje drugih ustreznih odborov in organov Sveta Evrope.

3 Poleg tega Odbor pogodbenic, kadar je to primerno:

a spodbuja učinkovito uporabo in izvajanje te konvencije, vključno z ugotavljanjem vsakršnih težav in vplivov katere koli izjave ali pridržka, danega po tej konvenciji;

b izrazi mnenje o kakršnem koli vprašanju v zvezi z uporabo te konvencije in spodbuja izmenjavo informacij o pomembnih dogajanjih na področju prava, politik ali tehnologije;

c daje pogodbenicam posebna priporočila v zvezi z izvajanjem te konvencije.

4 Evropski odbor za vprašanja kriminalitete (CDPC) se redno obvešča o dejavnostih iz prvega, drugega in tretjega odstavka tega člena.

IX. poglavje – Razmerje do drugih mednarodnih aktov

26. člen – Razmerje do drugih mednarodnih aktov

1 Ta konvencija ne vpliva na pravice in obveznosti, ki izhajajo iz določb drugih mednarodnih aktov, katerih pogodbenice so ali bodo postale pogodbenice te konvencije in ki vsebujejo določbe o zadevah, ki jih ureja ta konvencija.

2 Pogodbenice konvencije lahko med seboj sklepajo dvostranske ali večstranske sporazume o zadevah, ki jih obravnava ta konvencija, da dopolnijo ali krepijo njene določbe ali omogočijo lažjo uporabo v njej vsebovanih načel.

Chapter X – Amendments to the Convention**Article 27 – Amendments**

1 Any proposal for an amendment to this Convention presented by a Party shall be communicated to the Secretary General of the Council of Europe and forwarded by him or her to the Parties, the member States of the Council of Europe, non-member States having participated in the elaboration of this Convention or enjoying observer status with the Council of Europe, the European Union, and any State having been invited to sign this Convention.

2 Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems (CDPC) and other relevant Council of Europe intergovernmental or scientific committees, which shall submit to the Committee of the Parties their opinions on that proposed amendment.

3 The Committee of Ministers, having considered the proposed amendment and the opinion submitted by the Committee of the Parties, may adopt the amendment.

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

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

Chapter XI – Final clauses**Article 28 – Signature and entry into force**

1 This Convention shall be open for signature by the member States of the Council of Europe, the European Union and the non-member States which have participated in its elaboration or enjoy observer status with the Council of Europe. It shall also be open for signature by any other non-member State of the Council of Europe upon invitation by the Committee of Ministers. The decision to invite a non-member State to sign the Convention shall be taken by the majority provided for in Article 20.d of the Statute of the Council of Europe, and by unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers. This decision shall be taken after having obtained the unanimous agreement of the other States/European Union having expressed their consent to be bound by this Convention.

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

3 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five signatories, including at least three member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph.

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

Article 29 – Territorial application

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

X. poglavje – Spremembe konvencije**27. člen – Spremembe**

1 Vsak predlog za spremembo te konvencije, ki ga pripravi pogodbenica, se sporoči generalnemu sekretarju Sveta Evrope, ki ga pošlje pogodbenicam, državam članicam Sveta Evrope, državam nečlanicam, ki so sodelovale pri pripravi te konvencije ali imajo status opazovalke pri Svetu Evrope, Evropski uniji in vsaki državi, ki je bila povabljenka k podpisu te konvencije.

2 Vsaka sprememba, ki jo predlaga pogodbenica, se sporoči Evropskemu odboru za vprašanja kriminalitete (CDPC) in drugim ustreznim medvladnim ali znanstvenim odborom Sveta Evrope, ki svoje mnenje o predlagani spremembi sporočijo Odboru pogodbenic.

3 Odbor ministrov lahko, potem ko je proučil predlagano spremembo in mnenje Odbora pogodbenic, spremembo sprejme.

4 Besedilo vsake spremembe, ki jo sprejme Odbor ministrov v skladu s tretjim odstavkom tega člena, se pošlje pogodbenicam v sprejetje.

5 Vsaka sprememba, sprejeta v skladu s tretjim odstavkom tega člena, začne veljati prvi dan meseca po poteku enega meseca po dnevu, ko so vse pogodbenice obvestile generalnega sekretarja, da so jo sprejele.

XI. poglavje – Končne določbe**28. člen – Podpis in začetek veljavnosti**

1 Ta konvencija je na voljo za podpis državam članicam Sveta Evrope, Evropski uniji in državam nečlanicam, ki so sodelovale pri njeni pripravi ali imajo status opazovalke pri Svetu Evrope. Na povabilo Odbora ministrov je na voljo za podpis tudi vsaki drugi državi, ki ni članica Sveta Evrope. Odločitev, da se država nečlanica povabi k podpisu konvencije, se sprejme z večino, določeno v odstavku d 20. člena Statuta Sveta Evrope, in s soglasjem vseh predstavnikov držav pogodbenic, ki imajo pravico sodelovati v Odboru ministrov. Ta odločitev se sprejme po pridobitvi soglasja drugih držav/Evropske unije, ki so že izrazile soglasje, da jih ta konvencija zavezuje.

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

3 Ta konvencija začne veljati prvi dan meseca po poteku treh mesecev po dnevu, ko je pet podpisnic, vključno z najmanj tremi državami članicami Sveta Evrope, v skladu z določbami prejšnjega odstavka izrazilo svojo privolitve, da jih konvencija zavezuje.

4 Za vsako državo ali Evropsko unijo, ki pozneje izrazi svojo privolitve, da jo konvencija zavezuje, ta začne veljati prvi dan meseca po poteku treh mesecev po dnevu deponiranja njene listine o ratifikaciji, sprejetju ali odobritvi.

29. člen – Ozemeljska uporaba

1 Vsaka država ali Evropska unija lahko ob podpisu ali deponiranju listine o ratifikaciji, sprejetju ali odobritvi določi ozemlje ali ozemlja, na katerih se ta konvencija uporablja.

2 Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

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

Article 30 – Reservations

1 No reservation may be made in respect of any provision of this Convention, with the exception of the reservations expressly established.

2 Each Party which has made a reservation may, at any time, withdraw it entirely or partially by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect from the date of the receipt of such notification by the Secretary General.

Article 31 – Friendly settlement

The Committee of the Parties will follow in close co-operation with the European Committee on Crime Problems (CDPC) and other relevant Council of Europe intergovernmental or scientific committees the application of this Convention and facilitate, when necessary, the friendly settlement of all difficulties related to its application.

Article 32 – Denunciation

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

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

Article 33 – Notification

The Secretary General of the Council of Europe shall notify the Parties, the member States of the Council of Europe, the non-member States having participated in the elaboration of this Convention or enjoying observer status with the Council of Europe, the European Union, and any State having been invited to sign this Convention in accordance with the provisions of Article 28, of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance or approval;
- c any date of entry into force of this Convention in accordance with Article 28;
- d any amendment adopted in accordance with Article 27 and the date on which such an amendment enters into force;
- e any reservation made under Articles 5, 6, 7, 9 and 10 and any withdrawal of a reservation made in accordance with Article 30;
- f any denunciation made in pursuance of the provisions of Article 32;
- g any other act, notification or communication relating to this Convention.

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

3 Vsaka izjava, dana na podlagi prejšnjih dveh odstavkov, se lahko za vsako ozemlje, ki je v njej navedeno, umakne z uradnim obvestilom, naslovljenim na generalnega sekretarja Sveta Evrope. Umik začne veljati prvi dan meseca po poteku treh mesecev po dnevu, ko generalni sekretar prejme tako uradno obvestilo.

30. člen – Pridrški

1 Glede določb te konvencije ni mogoč noben pridržek, razen tistih, ki so izrecno predvideni.

2 Vsaka pogodbenica, ki je dala pridržek, ga lahko kadar koli v celoti ali deloma umakne z uradnim obvestilom, naslovljenim na generalnega sekretarja Sveta Evrope. Umik začne veljati z dnem, ko generalni sekretar prejme tako uradno obvestilo.

31. člen – Prijateljsko reševanje

Odbor pogodbenic bo v tesnem sodelovanju z Evropskim odborom za vprašanja kriminalitete (CDPC) in drugimi ustreznimi medvladnimi ali znanstvenimi odbori Sveta Evrope spremljal uporabo te konvencije in po potrebi omogočil prijateljsko reševanje vseh težav, povezanih z njeno uporabo.

32. člen – Odpoved

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

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

33. člen – Uradno obvestilo

Generalni sekretar Sveta Evrope pogodbenice, države članice Sveta Evrope, države nečlanice, ki so sodelovale pri pripravi te konvencije ali imajo status opazovalke pri Svetu Evrope, Evropsko unijo in vsako državo, ki je bila povabljenka k podpisu te konvencije v skladu z določbami 28. člena, uradno obvesti o:

- a vsakem podpisu;
- b deponiranju vsake listine o ratifikaciji, sprejetju ali odobritvi;
- c vsakem dnevu začetka veljavnosti te konvencije v skladu z 28. členom;
- d vsaki spremembi, sprejeti v skladu s 27. členom, in datumu začetka veljavnosti take spremembe;
- e vsakem pridržku, danem po 5., 6., 7., 9. in 10. členu, ter vsakem umiku pridržka v skladu s 30. členom;
- f vsaki odpovedi na podlagi določb 32. člena;
- g vsakem drugem dejanju, uradnem obvestilu ali sporočilu v zvezi s to konvencijo.

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

Done in Moscow, this 28th day of October 2011, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention or enjoy observer status with the Council of Europe, to the European Union and to any State invited to sign this Convention.

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

Sklenjeno v Moskvi, dne 28. oktobra 2011, v angleškem in francoskem jeziku, pri čemer sta besedili enako verodostojni, v enem izvodu, ki se hrani v arhivu Sveta Evrope. Generalni sekretar Sveta Evrope pošlje overjene kopije vsaki državi članici Sveta Evrope, državam nečlanicam, ki so sodelovale pri pripravi te konvencije ali imajo status opazovalke pri Svetu Evrope, Evropski uniji in vsaki državi, ki je bila povabljen k podpisu te konvencije.

3. člen

Republika Slovenija daje naslednji pridržek:

»V skladu s četrtem odstavkom 10. člena konvencije Republika Slovenija izjavlja, da si pridržuje pravico, da ne uporablja pravil o sodni pristojnosti, določenih v pododstavku d prvega odstavka in v drugem odstavku 10. člena te konvencije.«.

4. člen

Za izvajanje konvencije skrbi ministrstvo, pristojno za zdravje, v sodelovanju z ministrstvom, pristojnim za pravosodje, ministrstvom, pristojnim za notranje zadeve, ministrstvom, pristojnim za carinski sistem, ministrstvom, pristojnim za veterinarstvo, ministrstvom, pristojnim za zunanje zadeve, in Vrhovnim državnim tožilstvom Republike Slovenije.

5. člen

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

Št. 500-01/18-30/11

Ljubljana, dne 16. marca 2022

EPA 346-VIII

Državni zbor
Republike Slovenije
Igor Zorčič
predsednik

15. Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Helenske republike o medsebojnem varovanju izmenjanih tajnih podatkov (BGRMVTP)

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

U K A Z**o razglasitvi Zakona o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Helenske republike o medsebojnem varovanju izmenjanih tajnih podatkov (BGRMVTP)**

Razglašam Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Helenske republike o medsebojnem varovanju izmenjanih tajnih podatkov (BGRMVTP), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 16. marca 2022.

Št. 003-02-1/2022-83

Ljubljana, dne 24. marca 2022

Borut Pahor
predsednik
Republike Slovenije

Z A K O N**O RATIFIKACIJI SPORAZUMA MED VLADO REPUBLIKE SLOVENIJE IN VLADO HELENSKE REPUBLIKE O MEDSEBOJNEM VAROVANJU IZMENJANIH TAJNIH PODATKOV (BGRMVTP)**

1. člen

Ratificira se Sporazum med Vlado Republike Slovenije in Vlado Helenske republike o medsebojnem varovanju izmenjanih tajnih podatkov, sklenjen 4. oktobra 2021 v Atenah.

2. člen

Sporazum se v slovenskem in angleškem jeziku glasi:

**SPORAZUM
MED VLADO
REPUBLIKE SLOVENIJE
IN VLADO HELENSKE REPUBLIKE
O MEDSEBOJNEM VAROVANJU IZMENJANIH
TAJNIH PODATKOV**

Vlada Republike Slovenije

in

Vlada Helenske republike,

v nadaljnjem besedilu: „pogodbenici“,

sta se:

v želji, da bi zagotovili varovanje tajnih podatkov, izmenjanih med njima ali med javnimi in zasebnimi subjekti pod njuno jurisdikcijo,

ob upoštevanju nacionalnih interesov in varnosti držav pogodbenic,

1. ČLEN**NAMEN**

Pogodbenici v skladu s svojo zakonodajo sprejmeta vse ustrezne ukrepe, da bi zagotovili varovanje tajnih podatkov, ki se prenesejo ali nastanejo po tem sporazumu.

2. ČLEN**OPREDELITEV IZRAZOV**

Za namene tega sporazuma se uporabljajo naslednje opredeljene izraze:

tajni podatek: podatek, ki se ne glede na obliko prenese ali nastane med pogodbenicama po notranji zakonodaji pogodbenic in v interesu nacionalne varnosti zahteva varovanje pred nepooblaščenim razkritjem ali drugim ogrožanjem ter je bil kot tak določen in ustrezno označen;

**AGREEMENT
BETWEEN THE GOVERNMENT
OF THE REPUBLIC OF SLOVENIA
AND THE GOVERNMENT OF THE HELLENIC
REPUBLIC ON MUTUAL PROTECTION
OF EXCHANGED CLASSIFIED INFORMATION**

The Government of the Republic of Slovenia

and

the Government of the Hellenic Republic

Hereinafter referred to as the “Parties”,

Wishing to ensure the protection of Classified Information exchanged between the Parties or between public and private entities under their jurisdiction,

In respect of the national interests and security of the Contracting States,

Have agreed as follows:

ARTICLE 1**OBJECTIVE**

The Parties shall, in accordance with their respective laws and regulations, take all appropriate measures to ensure the protection of Classified Information which is transmitted or generated under this Agreement.

ARTICLE 2**DEFINITIONS**

For the purposes of this Agreement, the following definitions shall apply:

Classified Information: any information, regardless of its form, which is transmitted or generated between the Parties under the national laws and regulations of either Party, and which, in the interests of national security, requires protection against unauthorised disclosure or other compromise, and is designated as such and marked appropriately;

pogodbena izvora: pogodbenica, vključno z javnimi ali zasebnimi subjekti pod njeno jurisdikcijo, ki daje tajne podatke pogodbenici prejemnici;

pogodbena prejemnica: pogodbenica, vključno z javnimi ali zasebnimi subjekti pod njeno jurisdikcijo, ki prejema tajne podatke od pogodbenice izvora;

potreba po seznanitvi: načelo, po katerem se posamezniku ali posameznici lahko dovoli dostop do tajnih podatkov le za opravljanje njegovih ali njenih uradnih dolžnosti ali nalog;

dovoljenje za dostop do tajnih podatkov: odločitev po varnostnem preverjanju v skladu z notranjo zakonodajo, na podlagi katere je posameznik pooblaščen za dostop do tajnih podatkov stopnje tajnosti, ki je navedena na dovoljenju, in za ravnanje z njimi;

varnostno dovoljenje organizacije: odločitev po varnostnem preverjanju, da izvajalec, ki je pravna oseba, izpolnjuje pogoje za ravnanje s tajnimi podatki v skladu z notranjo zakonodajo pogodbenice;

izvajalec: posameznik ali pravna oseba s pravno sposobnostjo za sklepanje pogodb;

pogodba s tajnimi podatki: pogodba ali podizvajalska pogodba, vključno s pogajanjem pred sklenitvijo pogodbe, ki vsebuje tajne podatke ali vključuje dostop do njih;

tretja stran: država, vključno z javnim ali zasebnim subjektom pod njeno jurisdikcijo, ali mednarodna organizacija, ki ni pogodbenica tega sporazuma.

3. ČLEN

PRISTOJNI VARNOSTNI ORGANI

(1) Nacionalna varnostna organa, ki sta ju pogodbenici imenovali za odgovorna za splošno izvajanje tega sporazuma, sta

v Republiki Sloveniji:

Urad Vlade Republike Slovenije za varovanje tajnih podatkov (NVO),

v Helenski republiki:

Nacionalni varnostni organ (NVO), Generalštab Helenske nacionalne obrambe (HNDGS), Združeni vojaški obveščevalni sektor (JMID).

(2) Nacionalna varnostna organa drug drugega uradno obvestita o vseh pristojnih varnostnih organih, odgovornih za izvajanje tega sporazuma.

(3) Pogodbenici se po diplomatski poti uradno obveščata o vseh poznejših spremembah svojih nacionalnih varnostnih organov.

4. ČLEN

STOPNJE TAJNOSTI

(1) Vsi tajni podatki, dani na podlagi tega sporazuma, so označeni z ustrežno stopnjo tajnosti v skladu z notranjo zakonodajo pogodbenic.

(2) Enakovredne stopnje tajnosti so:

V REPUBLIKI SLOVENIJI	V HELENSKI REPUBLIKI	V ANGLEŠKEM JEZIKU
STROGO TAJNO	ΑΚΡΩΣ ΑΠΟΡΡΗΤΟ	TOP SECRET
TAJNO	ΑΠΟΡΡΗΤΟ	SECRET
ZAUPNO	ΕΜΠΙΣΤΕΥΤΙΚΟ	CONFIDENTIAL
INTERNO	ΠΕΡΙΟΡΙΣΜΕΝΗΣ ΧΡΗΣΗΣ	RESTRICTED

Originating Party: the Party, including any public or private entities under its jurisdiction, which releases Classified Information to the Recipient Party;

Recipient Party: the Party, including any public or private entities under its jurisdiction, which receives Classified Information from the Originating Party;

Need-to-Know: a principle by which access to Classified Information may be granted to an individual only in connection with his/her official duties or tasks;

Personnel Security Clearance: a determination, following a security clearance process in accordance with national laws and regulations, on the basis of which an individual is authorised to access to and handle Classified Information up to the level defined in the clearance;

Facility Security Clearance: a determination following a security clearance process certifying that a contractor which is a legal entity fulfils the conditions to handle Classified Information in accordance with the national laws and regulations of the respective Party;

Contractor: an individual or legal entity possessing the legal capacity to conclude contracts;

Classified Contract: a contract or a subcontract, including pre-contractual negotiations, which contains Classified Information or involves access to such information;

Third Party: any state, including any public or private entity under its jurisdiction, or an international organisation that is not a Party to this Agreement.

ARTICLE 3

COMPETENT SECURITY AUTHORITIES

(1) The National Security Authorities designated by the Parties as responsible for the general implementation of this Agreement are:

In the Republic of Slovenia:

The Office of the Government of the Republic of Slovenia for the Protection of Classified Information (NSA),

In the Hellenic Republic:

National Security Authority (NSA), Hellenic National Defence General Staff (HNDGS), Joint Military Intelligence Division (JMID).

(2) The National Security Authorities shall notify each other of any other competent security authorities responsible for the implementation of this Agreement.

(3) The Parties shall notify each other, through diplomatic channels, of any subsequent changes to their respective National Security Authorities.

ARTICLE 4

SECURITY CLASSIFICATION LEVELS

(1) Any Classified Information released under this Agreement shall be marked with the appropriate security classification level in accordance with the national laws and regulations of the Parties.

(2) The following security classification levels shall be equivalent:

IN THE REPUBLIC OF SLOVENIA	IN THE HELLENIC REPUBLIC	IN THE ENGLISH LANGUAGE
STROGO TAJNO	ΑΚΡΩΣ ΑΠΟΡΡΗΤΟ	TOP SECRET
TAJNO	ΑΠΟΡΡΗΤΟ	SECRET
ZAUPNO	ΕΜΠΙΣΤΕΥΤΙΚΟ	CONFIDENTIAL
INTERNO	ΠΕΡΙΟΡΙΣΜΕΝΗΣ ΧΡΗΣΗΣ	RESTRICTED

5. ČLEN**DOSTOP DO TAJNIH PODATKOV**

(1) Dostop do tajnih podatkov je dovoljen samo tistim posameznikom, ki imajo potrebo po seznanitvi, so bili poučeni o ravnanju s tajnimi podatki in njihovem varovanju ter so za to pravilno pooblašteni v skladu z notranjo zakonodajo.

(2) Pogodbenici medsebojno priznavata dovoljenja za dostop do tajnih podatkov in varnostna dovoljenja organizacij. Pri tem se uporablja drugi odstavek 4. člena.

6. ČLEN**VAROVANJE TAJNIH PODATKOV**

(1) Pogodbenici zagotavljata za tajne podatke iz tega sporazuma enako varovanje kot za svoje tajne podatke enakovredne stopnje tajnosti.

(2) Pristojni varnostni organ pogodbenice izvora:

a) zagotovi, da so tajni podatki označeni z ustrezno stopnjo tajnosti v skladu z njegovo notranjo zakonodajo, in

b) obvesti pogodbenico prejemnico o vseh pogojih za dajanje tajnih podatkov ali omejitvah njihove uporabe in o vseh poznejših spremembah stopnje tajnosti.

(3) Pristojni varnostni organ pogodbenice prejemnice:

a) zagotovi, da so tajni podatki označeni z enakovrednimi stopnjami tajnosti v skladu z drugim odstavkom 4. člena, in

b) zagotovi, da se stopnja tajnosti ne spremeni brez predhodnega pisnega dovoljenja pogodbenice izvora.

(4) Vsaka pogodbenica zagotovi, da se sprejmejo ustrezni ukrepi za varovanje tajnih podatkov, ki se obdelujejo, hranijo ali prenašajo v informacijsko-komunikacijskih sistemih. S temi ukrepi se zagotovijo zaupnost, celovitost, razpoložljivost, in kadar je primerno, nezatajljivost in verodostojnost tajnih podatkov ter ustreza raven odgovornosti in sledljivosti dejanj, povezanih s takimi podatki.

7. ČLEN**OMEJITEV UPORABE
TAJNIH PODATKOV**

(1) Pogodbenica prejemnica tajne podatke uporabi izključno za namen, za katerega so ji bili dani, in v skladu z omejitvami, ki jih je navedla pogodbenica izvora.

(2) Pogodbenica prejemnica ne daje tajnih podatkov tretji strani brez predhodnega pisnega soglasja pogodbenice izvora.

8. ČLEN**PRENOS TAJNIH PODATKOV**

(1) Prenos tajnih podatkov med pogodbenicama poteka po diplomatski poti ali po drugih varnih poteh, ki jih obojestransko odobrita njuna nacionalna varnostna organa v skladu z notranjo zakonodajo.

(2) Prenos tajnih podatkov stopnje INTERNO lahko poteka tudi po pošti ali prek druge dostavne službe v skladu z notranjo zakonodajo.

9. ČLEN**RAZMNOŽEVANJE, PREVAJANJE IN UNIČENJE
TAJNIH PODATKOV**

(1) Vse kopije in prevodi imajo ustrezno stopnjo tajnosti ter se varujejo enako kot tajni podatki v izvorniku. Prevodi in število kopij so omejeni na najmanjšo količino, ki je potrebna za uradne namene.

ARTICLE 5**ACCESS TO CLASSIFIED INFORMATION**

(1) Access to Classified Information shall be limited to individuals who have a Need-to-Know, who have been briefed on handling and protecting Classified Information, and who are duly authorised thereto in accordance with national laws and regulations.

(2) The Parties shall mutually recognise their Personnel Security Clearances and Facility Security Clearances. The second paragraph of Article 4 shall apply accordingly.

ARTICLE 6**PROTECTION OF CLASSIFIED INFORMATION**

(1) The Parties shall afford to Classified Information under this Agreement the same protection as to their own Classified Information with the corresponding security classification level.

(2) The competent security authority of the Originating Party shall:

a) ensure that Classified Information is marked with an appropriate security classification level in accordance with its national laws and regulations, and

b) inform the Recipient Party of any conditions of release or limitations on the use of Classified Information, and of any subsequent changes in security classification level.

(3) The competent security authority of the Recipient Party shall:

a) ensure that Classified Information is marked with an equivalent level of security classification in accordance with the second paragraph of Article 4, and

b) ensure that the security classification level is not changed without a prior written authorization by the Originating Party.

(4) Each Party shall ensure that appropriate measures are taken to protect Classified Information processed, stored or transmitted in communication and information systems. Such measures shall ensure the confidentiality, integrity, availability and, where applicable, non-repudiation and authenticity of Classified Information, as well as an appropriate level of accountability and traceability of actions in relation to that information.

ARTICLE 7**RESTRICTION ON THE USE
OF CLASSIFIED INFORMATION**

(1) The Recipient Party shall use Classified Information solely for the purpose for which it has been released and within the limitations stated by the Originating Party.

(2) The Recipient Party shall not release Classified Information to a Third Party without a prior written consent from the Originating Party.

ARTICLE 8**TRANSMISSION OF CLASSIFIED INFORMATION**

(1) Classified Information shall be transmitted between the Parties through diplomatic channels or through other secure channels mutually approved by their National Security Authorities in accordance with national laws and regulations.

(2) Classified Information at the RESTRICTED level may also be transmitted by post or another delivery service in accordance with national laws and regulations.

ARTICLE 9**REPRODUCTION, TRANSLATION AND DESTRUCTION
OF CLASSIFIED INFORMATION**

(1) All reproductions and translations shall bear appropriate security classification levels and shall be protected in the same way as the original Classified Information. Translations and the number of reproductions shall be limited to the minimum amount required for official purposes.

(2) Vsak prevod se označi s stopnjo tajnosti tajnih podatkov v izvorniku in vsebuje ustrezno navedbo v jeziku prevoda, da vsebuje tajne podatke pogodbenice izvora.

(3) Tajni podatki v izvorniku in prevodu z oznako stopnje STROGO TAJNO se razmnožujejo izključno s pisnim dovoljenjem pogodbenice izvora.

(4) Tajni podatki z oznako stopnje STROGO TAJNO se ne uničijo. Ko niso več potrebni, se vrnejo pogodbenici izvora.

(5) Tajne podatke stopnje TAJNO ali nižje stopnje pogodbenica prejemnica, ko jih ne potrebuje več, uniči v skladu z notranjo zakonodajo.

(6) Če v kriznih razmerah tajnih podatkov, ki se prenesejo ali nastanejo po tem sporazumu, ni mogoče varovati ali vrniti, se ti takoj uničijo. O njihovem uničenju pogodbenica prejemnica čim prej uradno obvesti nacionalni varnostni organ pogodbenice izvora.

10. ČLEN

POGODBE S TAJNIMI PODATKI

(1) Nacionalni varnostni organ pogodbenice prejemnice zagotovi, da se tajni podatki v zvezi s pogodbo s tajnimi podatki dajo izvajalcem, podizvajalcem ali morebitnim izvajalcem, potem ko:

a) se zagotovi, da so izvajalec, podizvajalec ali morebitni izvajalec in njegove organizacije zmožni tajne podatke ustrezno varovati;

b) se izda organizacijam ustrezno varnostno dovoljenje in

c) imajo osebe, ki opravljajo naloge, pri katerih je potreben dostop do tajnih podatkov, ustrezno dovoljenje za dostop do tajnih podatkov.

(2) Pogodbenica prejemnica zagotovi, da so vse osebe, ki imajo dostop do tajnih podatkov, seznanjene s svojo odgovornostjo in dolžnostmi glede varovanja tajnih podatkov v skladu z notranjo zakonodajo.

(3) Nacionalni varnostni organ pogodbenice izvora lahko zahteva inšpekcijski pregled varovanja tajnih podatkov v organizaciji, da se zagotovi stalno izpolnjevanje varnostnih standardov v skladu z notranjo zakonodajo.

(4) Pogodba s tajnimi podatki vsebuje določbe o varnostnih zahtevah in stopnji tajnosti vsakega njenega vidika ali dela. Kopija takega dokumenta se predloži nacionalnima varnostnima organoma pogodbenic.

11. ČLEN

OBISKI

(1) Obiski, pri katerih je potreben dostop do tajnih podatkov, se odobrijo na podlagi predhodnega dovoljenja nacionalnega varnostnega organa pogodbenice gostiteljice.

(2) Zaposilo za obisk se predloži pristojnemu nacionalnemu varnostnemu organu vsaj 30 dni pred začetkom obiska. Zaposilo za obisk vsebuje naslednje podatke, ki se uporabljajo izključno za namen obiska:

a) ime in priimek obiskovalca, datum in kraj rojstva, državljanstvo in številko osebne izkaznice ali potnega lista;

b) delovno mesto obiskovalca s podatki o delodajalcu, ki ga obiskovalec zastopa;

c) podatke o projektu, pri katerem obiskovalec sodeluje;

d) veljavnost in stopnjo tajnosti obiskovalčevega dovoljenja za dostop do tajnih podatkov, če je potrebno;

e) ime, naslov, telefonsko številko/številko telefaksa in elektronski naslov organizacije, v kateri bo obisk, ter ime osebe za stike v tej organizaciji;

(2) All translations shall be marked with the security classification level of the original Classified Information, and shall contain suitable annotation in the language of translation indicating that they contain Classified Information of the Originating Party.

(3) Classified Information marked with the TOP SECRET level, both the original and translation, shall be reproduced only upon the written permission of the Originating Party.

(4) Classified Information marked with the TOP SECRET level shall not be destroyed. When no longer required, it shall be returned to the Originating Party.

(5) Classified Information at the SECRET level or below shall be destroyed when it is no longer considered necessary by the Recipient Party, in accordance with national laws and regulations.

(6) If a crisis situation makes it impossible to protect or return Classified Information transmitted or generated under this Agreement, the Classified Information shall be destroyed immediately. The Recipient Party shall notify the National Security Authority of the Originating Party of its destruction as soon as possible.

ARTICLE 10

CLASSIFIED CONTRACTS

(1) The National Security Authority of the Recipient Party shall ensure that Classified Information related to a Classified Contract is released to Contractors, subcontractors or prospective contractors after:

a) it has been ensured that the Contractor, subcontractor or prospective contractor and its facilities are able to provide suitable protection for the Classified Information;

b) the facilities have an appropriate Facility Security Clearance and

c) persons who perform functions which require access to Classified Information have appropriate Personnel Security Clearance.

(2) The Recipient Party shall ensure that all persons having access to Classified Information are informed of their responsibilities and obligation to protect the Classified Information in accordance with national laws and regulations.

(3) The National Security Authority of the Originating Party may request that a security inspection regarding the protection of Classified Information be undertaken at a facility to ensure continuing compliance with security standards in accordance with national laws and regulations.

(4) A Classified Contract shall contain provisions on the security requirements and on the security classification level of each aspect or element of the Classified Contract. A copy of such document shall be submitted to the National Security Authorities of the Parties.

ARTICLE 11

VISITS

(1) Visits requiring access to Classified Information shall be subject to the prior authorisation of the National Security Authority of the host Party.

(2) A request for visit shall be submitted to the competent National Security Authority at least 30 days prior to the commencement of the visit. The request for visit shall include the following information, which shall be used only for the purpose of the visit:

a) first and last name of the visitor, date and place of birth, nationality and identity card/passport number;

b) position of the visitor, with a specification of the employer that the visitor represents;

c) a specification of the project in which the visitor is a participant;

d) the validity and classification level of the visitor's Personnel Security Clearance, if required;

e) name, address, phone/fax number, e-mail address and point of contact of the facility to be visited;

f) namen obiska, vključno z najvišjo stopnjo tajnosti obravnavanih tajnih podatkov;

g) datum in trajanje obiska. Pri večkratnih obiskih se navede celotno obdobje, v katerem bodo potekali;

h) datum in podpis nacionalnega varnostnega organa pošiljatelja.

(3) V nujnih primerih se nacionalna varnostna organa lahko dogovorita o krajšem obdobju za predložitev zaprosila za obisk.

(4) Nacionalna varnostna organa se lahko dogovorita o seznamu obiskovalcev, ki imajo pravico do večkratnih obiskov. Seznam velja za začetno obdobje, ki ni daljše od 12 mesecev in se lahko podaljša za nadaljnje obdobje, ki ni daljše od 12 mesecev. Zaposilo za večkratne obiske se predloži v skladu z drugim odstavkom tega člena. Ko je seznam potrjen, se sodelujoče organizacije o obiskih lahko dogovarjajo neposredno.

(5) Vsaka pogodbenica zagotavlja varstvo osebnih podatkov obiskovalcev v skladu z notranjo zakonodajo.

(6) Vsi tajni podatki, ki jih dobi obiskovalec, veljajo za tajne podatke po tem sporazumu.

12. ČLEN

SODELOVANJE PRI VAROVANJU TAJNIH PODATKOV

(1) Zaradi doseganja in ohranjanja primerljivih varnostnih standardov nacionalna varnostna organa na zaprosilo drug drugemu zagotovita informacije o svojih državnih varnostnih standardih, postopkih in praksah za varovanje tajnih podatkov. V ta namen se nacionalna varnostna organa lahko obiskujeta.

(2) Pristojni varnostni organi se obveščajo o izjemnih varnostnih tveganjih, ki lahko ogrozijo dane tajne podatke ali sisteme za varovanje tajnih podatkov.

(3) Nacionalna varnostna organa si na zaprosilo pomagata pri izvajanju postopkov varnostnega preverjanja. Izmenjata si podatke o morebitnih varnostnih zadržkih, pomembnih v postopku varnostnega preverjanja.

(4) Nacionalna varnostna organa se takoj obvestita o vsaki spremembi pri dovoljenjih za dostop do tajnih podatkov in varnostnih dovoljenjih organizacij.

13. ČLEN

KRŠITEV VAROVANJA TAJNOSTI

(1) Ob kršitvi varovanja tajnosti, katere posledica je nepooblaščen razkritje, odtujitev ali izguba tajnih podatkov, ali sumu take kršitve nacionalni varnostni organ pogodbenice prejemnice o tem takoj pisno obvesti nacionalni varnostni organ pogodbenice izvora.

(2) Pristojni organi pogodbenice prejemnice sprejmejo vse ustrezne ukrepe v skladu z notranjo zakonodajo, da omejijo posledice kršitve iz prvega odstavka tega člena in preprečijo nadaljnje kršitve. Na zaprosilo druga pogodbenica zagotovi ustrezno pomoč; obvesti se o izidu postopkov in ukrepih, sprejetih zaradi kršitve.

(3) Ob kršitvi varovanja tajnosti v tretji strani nacionalni varnostni organ pogodbenice pošiljateljice nemudoma sprejme ukrepe iz drugega odstavka tega člena.

14. ČLEN

STROŠKI

Vsaka pogodbenica krije svoje stroške, ki nastanejo pri izvajanju tega sporazuma.

f) the purpose of the visit, including the highest security classification level of Classified Information to be involved;

g) the date and duration of the visit. In the case of recurring visits, the total period covered by the visits shall be stated;

h) date and signature of the sending National Security Authority.

(3) In urgent cases, the National Security Authorities may agree on a shorter period for the submission of a request for visit.

(4) The National Security Authorities may agree on a list of visitors entitled to recurring visits. The list shall be valid for an initial period not exceeding 12 months and may be extended for a further period not exceeding 12 months. The request for recurring visits shall be submitted in accordance with the second paragraph of this Article. Once a list has been approved, visits may be arranged directly between the facilities involved.

(5) Each Party shall guarantee the protection of personal data of visitors in accordance with national laws and regulations.

(6) Any Classified Information acquired by a visitor shall be considered as Classified Information under this Agreement.

ARTICLE 12

CO-OPERATION ON THE PROTECTION OF CLASSIFIED INFORMATION

(1) In order to achieve and maintain comparable standards of security, the National Security Authorities shall, on request, provide each other with information about their national security standards, procedures and practices for the protection of Classified Information. For this purpose, the National Security Authorities may visit each other.

(2) The competent security authorities shall inform each other of exceptional security risks that may endanger released Classified Information or Classified Information protection systems.

(3) On request, the National Security Authorities shall assist each other in carrying out a security clearance process. They shall exchange information on possible security concerns that are of importance in the security clearance process.

(4) The National Security Authorities shall promptly inform each other about any changes in Personnel and Facility Security Clearances.

ARTICLE 13

BREACH OF SECURITY

(1) In the event of a security breach resulting in the unauthorised disclosure, misappropriation or loss of Classified Information or suspicion of such a breach, the National Security Authority of the Recipient Party shall immediately inform the National Security Authority of the Originating Party thereof in writing.

(2) The competent authorities of the Recipient Party shall take all appropriate measures under its national laws and regulations to limit the consequences of the breach referred to in the first paragraph of this Article and to prevent further breaches. On request, the other Party shall provide appropriate assistance; it shall be informed of the outcome of the proceedings and measures taken due to the breach.

(3) When a breach of security has occurred in a Third Party, the National Security Authority of the sending Party shall take the measures referred to in the second paragraph of this Article without delay.

ARTICLE 14

EXPENSES

Each Contracting Party shall bear its own costs incurred in the course of implementing this Agreement.

15. ČLEN**REŠEVANJE SPOROV**

Spore zaradi razlage ali uporabe tega sporazuma pogodbenici rešujeta z medsebojnimi posvetovanji in pogajanja ter jih ne predložita v reševanje državnemu ali mednarodnemu sodišču ali tretji strani.

16. ČLEN**KONČNE DOLOČBE**

(1) Sporazum začne veljati prvi dan drugega meseca po prejemu zadnjega uradnega obvestila, s katerim se pogodbenici po diplomatski poti obvestita, da so izpolnjene njune notranjepravne zahteve za začetek njegove veljavnosti.

(2) Sporazum se lahko spremeni z medsebojnim pisnim soglasjem pogodbenic. Spremembe začnejo veljati v skladu s prvim odstavkom tega člena.

(3) Sporazum se sklene za nedoločen čas. Pogodbenica ga lahko odpove s pisnim uradnim obvestilom, poslanim po diplomatski poti drugi pogodbenici. V tem primeru sporazum preneha veljati šest mesecev po dnevu, ko druga pogodbenica prejme obvestilo o odpovedi.

(4) Ob prenehanju veljavnosti tega sporazuma se vsi tajni podatki, izmenjani na podlagi tega sporazuma, še naprej varujejo v skladu z njegovimi določbami in se na zaprosilo vrnejo pogodbenici izvora.

(5) Za izvajanje tega sporazuma se lahko sklenejo dodatni dogovori.

V potrditev tega sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala ta sporazum.

Sklenjeno v Atenah 4. oktobra 2021 v dveh izvornikih v slovenskem, grškem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Ob različnih razlagah prevlada angleško besedilo.

Za Vlado
Republike Slovenije
N.E. Matjaž Longar l.r.

Za Vlado
Helenske republike
Generalmajor
Dimitrios Choupis l.r.

ARTICLE 15**RESOLUTION OF DISPUTES**

Any dispute regarding the interpretation or application of this Agreement shall be resolved by consultation and negotiation between the Parties and shall not be referred to any national or international tribunal or Third Party for settlement.

ARTICLE 16**FINAL PROVISIONS**

(1) This Agreement shall enter into force on the first day of the second month following the receipt of the last notification with which the Parties inform each other, through diplomatic channels, that the internal legal requirements for its entry into force have been fulfilled.

(2) This Agreement may be amended by the mutual, written consent of the Parties. Such amendments shall enter into force in accordance with the first paragraph of this Article.

(3) This Agreement shall be concluded for an indefinite period. Either Party may terminate this Agreement by written notification delivered to the other Party through diplomatic channels. In such a case, the validity of this Agreement shall expire six months after the day on which the other Party received notice of termination.

(4) In the event of termination of this Agreement, any Classified Information exchanged in accordance with this Agreement shall continue to be protected in accordance with the provisions set forth herein and, on request, returned to the Originating Party.

(5) Additional arrangements may be concluded for the implementation of this Agreement.

In witness whereof, the undersigned, duly authorised to this effect, have signed this Agreement.

Done at Athens on 4 October 2021 in two originals in the Slovenian, Greek, and English languages, each text being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government
of the Republic of Slovenia
H.E. Matjaž Longar (s)

For the Government
of the Hellenic Republic
Major General Dimitrios
Choupis (s)

3. člen

Za izvajanje sporazuma skrbi Urad Vlade Republike Slovenije za varovanje tajnih podatkov.

4. člen

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

Št. 040-05/19-3/11

Ljubljana, dne 16. marca 2022

EPA 385-VIII

Državni zbor
Republike Slovenije
Igor Zorčič
predsednik

16. Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Republiko Avstrijo o prenehanju veljavnosti Sporazuma med Republiko Slovenijo in Republiko Avstrijo o medsebojnem spodbujanju in zaščiti naložb (BATPVSZN)

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

U K A Z

o razglasitvi Zakona o ratifikaciji Sporazuma med Republiko Slovenijo in Republiko Avstrijo o prenehanju veljavnosti Sporazuma med Republiko Slovenijo in Republiko Avstrijo o medsebojnem spodbujanju in zaščiti naložb (BATPVSZN)

Razglaszam Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Republiko Avstrijo o prenehanju veljavnosti Sporazuma med Republiko Slovenijo in Republiko Avstrijo o medsebojnem spodbujanju in zaščiti naložb (BATPVSZN), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 16. marca 2022.

Št. 003-02-1/2022-85

Ljubljana, dne 24. marca 2022

Borut Pahor
predsednik
Republike Slovenije

Z A K O N

**O RATIFIKACIJI SPORAZUMA MED REPUBLIKO SLOVENIJO IN REPUBLIKO AVSTRIJO
O PRENEHANJU VELJAVNOSTI SPORAZUMA MED REPUBLIKO SLOVENIJO
IN REPUBLIKO AVSTRIJO O MEDSEBOJNEM SPODBUJANJU IN ZAŠČITI NALOŽB (BATPVSZN)**

1. člen

Ratificira se Sporazum med Republiko Slovenijo in Republiko Avstrijo o prenehanju veljavnosti Sporazuma med Republiko Slovenijo in Republiko Avstrijo o medsebojnem spodbujanju in zaščiti naložb, sklenjen z izmenjavo not 25. avgusta 2021.

2. člen

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

No. 2021-0.567.708

Opening Note of the Republic of Austria

The Federal Ministry for European and International Affairs of the Republic of Austria presents its compliments to the Embassy of the Republic of Slovenia in Vienna and with reference to the judgment of the Court of Justice of the European Union of 6 March 2018 in Case C-284/16, *Achmea*, has the honour to propose the conclusion of the following

»Agreement between the Republic of Austria and the Republic of Slovenia on the Termination of the Agreement between the Republic of Austria and the Republic of Slovenia on the mutual promotion and protection of investments (hereinafter referred to as the »Termination Agreement«)

1. The Agreement between the Republic of Austria and the Republic of Slovenia on the mutual promotion and protection of investments, signed in Vienna on 7 March 2001, (hereinafter referred to as the »Investment Agreement«) shall be terminated in accordance with the provisions set out in this Termination Agreement.

2. For greater certainty, the Parties expressly agree that Article 16 Paragraph 3 of the Investment Agreement, which extends the protection of investment made prior to the date of termination, shall be terminated and shall thus not produce any legal effects after the entry into force of this Termination Agreement.«

The Federal Ministry for European and International Affairs of the Republic of Austria proposes that in case the Republic of Slovenia accepts the abovementioned proposal, this note verbale together with the note verbale received in reply from the Republic of Slovenia shall constitute the Termination Agreement, which is authentic in the English language only.

Št. 2021-0.567.708

Začetna nota Republike Avstrije

Zvezno ministrstvo za evropske in mednarodne zadeve Republike Avstrije izraža svoje odlično spoštovanje Veleposlaništvu Republike Slovenije na Dunaju in ima v zvezi s sodbo Sodišča Evropske unije z dne 6. marca 2018 v zadevi C-284/16, *Achmea*, čast predlagati, da se sklene naslednji

»Sporazum med Republiko Avstrijo in Republiko Slovenijo o prenehanju veljavnosti Sporazuma med Republiko Avstrijo in Republiko Slovenijo o medsebojnem spodbujanju in zaščiti naložb (v nadaljnjem besedilu: Sporazum o prenehanju veljavnosti)

1. Sporazum med Republiko Avstrijo in Republiko Slovenijo o vzajemnem spodbujanju in zaščiti naložb, podpisan na Dunaju 7. marca 2001 (v nadaljnjem besedilu: Sporazum o naložbah), preneha veljati v skladu z določbami Sporazuma o prenehanju veljavnosti.

2. Pogodbenici se zaradi večje jasnosti izrecno strinjata, da preneha veljati tretji odstavek 16. člena Sporazuma o naložbah o podaljšanju zaščite za naložbe, ki so bile izvedene pred datumom prenehanja veljavnosti Sporazuma o naložbah, in zato nima nobenih pravnih učinkov po datumu začetka veljavnosti Sporazuma o prenehanju veljavnosti.«

Zvezno ministrstvo za evropske in mednarodne zadeve Republike Avstrije predlaga, da se, če Republika Slovenija sprejme zgoraj navedeni predlog, ta verbalna nota skupaj z verbalno noto Republike Slovenije v odgovor nanjo, šteje za Sporazum o prenehanju veljavnosti, ki je verodostojen samo v angleškem jeziku.

The Termination Agreement shall enter into force on the first day of the first month following the date of the receipt of the latter of the notifications by the Parties that the respective internal procedures for the entry into force of the Termination Agreement have been fulfilled.

The Federal Ministry for European and International Affairs of the Republic of Austria avails itself of this opportunity to renew to the Embassy of the Republic of Slovenia in Vienna the assurances of its highest consideration.

Vienna, 12 August 2021

To the Embassy of the Republic
of Slovenia in Vienna
Kolingasse 12
1090 Vienna

No: VDU-163/21

NOTE VERBALE

The Embassy of the Republic of Slovenia in Vienna presents its compliments to the Federal Ministry for European and International Affairs of the Republic of Austria and with reference to the note verbale No. 2021-0.567.708 of 12 August 2021 of the Federal Ministry for European and International Affairs of the Republic of Austria, has the honour to inform that the Republic of Slovenia agrees to conclude the following

“Agreement between the Republic of Slovenia and the Republic of Austria on the Termination of the Agreement between the Republic of Slovenia and the Republic of Austria on the mutual promotion and protection of investments (hereinafter referred to as the “Termination Agreement”)

1. The Agreement between the Republic of Slovenia and the Republic of Austria on the mutual promotion and protection of investments, signed in Vienna on 7 March 2001, (hereinafter referred to as the “Investment Agreement”) shall be terminated in accordance with the provisions set out in this Termination Agreement.

2. For greater certainty, the Parties expressly agree that Article 16 Paragraph 3 of the Investment Agreement, which extends the protection of investment made prior to the date of termination, shall be terminated and shall thus not produce any legal effects after the entry into force of this Termination Agreement.”

The Republic of Slovenia accepts that the note verbale No. 2021-0.567.708 of 12 August 2021 of the Federal Ministry for European and International Affairs of the Republic of Austria and this note verbale shall constitute the Termination Agreement, which is authentic in the English language only.

The Termination Agreement shall enter into force on the first day of the first month following the date of the receipt of the latter of the notifications by the Parties that the respective internal procedures for the entry into force of the Agreement have been fulfilled.

The Embassy of the Republic of Slovenia in Vienna avails itself of this opportunity to renew to Federal Ministry for European and International Affairs of the Republic of Austria the assurances of its highest consideration.

Vienna, 25 August 2021

FEDERAL MINISTRY FOR EUROPEAN
AND INTERNATIONAL AFFAIRS
OF THE REPUBLIC OF AUSTRIA

VIENNA

Sporazum o prenehanju veljavnosti začne veljati prvi dan prvega meseca po datumu, ko pogodbenici prejmeta uradno pisno obvestilo, da so bili opravljeni notranji postopki, potrebni za začetek veljavnosti Sporazuma o prenehanju veljavnosti.

Zvezno ministrstvo za evropske in mednarodne zadeve Republike Avstrije izkorišča tudi to priložnost, da Veleposlaništvu Republike Slovenije na Dunaju ponovno izrazi svoje odlično spoštovanje.

Dunaj, 12. avgust 2021

Veleposlaništvo Republike
Slovenije na Dunaju
Kolingasse 12
1090 Dunaj

Št.: VDU-163/21

VERBALNA NOTA

Veleposlaništvo Republike Slovenije na Dunaju izraža svoje odlično spoštovanje Zveznemu ministrstvu za evropske in mednarodne zadeve Republike Avstrije in ima v zvezi z verbalno noto Zveznega ministrstva za evropske in mednarodne zadeve Republike Avstrije št. 2021-0.567.708 z dne 12. avgusta 2021 čast sporočiti, da se Republika Slovenija strinja, da se sklene naslednji

»Sporazum med Republiko Slovenijo in Republiko Avstrijo o odpovedi Sporazuma med Republiko Slovenijo in Republiko Avstrijo o vzajemnem spodbujanju in zaščiti naložb (v nadaljnjem besedilu: Sporazum o prenehanju veljavnosti)

1. Sporazum med Republiko Slovenijo in Republiko Avstrijo o vzajemnem spodbujanju in zaščiti naložb, podpisan na Dunaju 7. marca 2001 (v nadaljnjem besedilu: Sporazum o naložbah), preneha veljati v skladu z določbami Sporazuma o prenehanju veljavnosti.

2. Pogodbenici se zaradi večje jasnosti izrecno strinjata, da preneha veljati tretji odstavek 16. člena Sporazuma o naložbah o podaljšanju zaščite za naložbe, ki so bile izvedene pred datumom prenehanja veljavnosti Sporazuma o naložbah, in zato nima nobenih pravnih učinkov po datumu začetka veljavnosti Sporazuma o prenehanju veljavnosti.«

Republika Slovenija se strinja, da verbalna nota Zveznega ministrstva za evropske in mednarodne zadeve Republike Avstrije št. 2021-0.567.708 z dne 12. avgusta 2021 in ta verbalna nota štejeta za Sporazum o prenehanju veljavnosti, ki je verodostojen samo v angleškem jeziku.

Sporazum o prenehanju veljavnosti začne veljati prvi dan prvega meseca po datumu, ko pogodbenici prejmeta uradno pisno obvestilo, da so bili opravljeni notranji postopki, potrebni za začetek veljavnosti Sporazuma o prenehanju veljavnosti.

Veleposlaništvo Republike Slovenije na Dunaju izkorišča tudi to priložnost, da Zveznemu ministrstvu za evropske in mednarodne zadeve Republike Avstrije ponovno izrazi svoje odlično spoštovanje.

Dunaj, 25. avgust 2021

ZVEZNO MINISTRSTVO ZA EVROPSKE
IN MEDNARODNE ZADEVE
REPUBLIKE AVSTRIJE

DUNAJ

3. člen

Za izvajanje sporazuma skrbi ministrstvo, pristojno za gospodarstvo.

4. člen

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

Št. 410-01/22-1/9

Ljubljana, dne 16. marca 2022

EPA 2583-VIII

Državni zbor
Republike Slovenije
Igor Zorčič
predsednik

VSEBINA

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