

PREDLOG

ZAKON O POTVR IVANJU DODATNOG PROTOKOLA UZ KONVENCIJU SAVJETA EVROPE O PREVENCIJI TERORIZMA

Ilan 1

Potvr uje se Dodatni protokol uz Konvenciju Savjeta Evrope o prevenciji terorizma usvojen 19. maja 2015. godine i otvoren za potpisivanje 22. oktobra 2015. godine u Rigi, u originalu na engleskom i francuskom jeziku.

Ilan 2

Tekst Dodatnog protokola iz Ilana 1 ovog zakona, u originalu na engleskom jeziku i u prevodu na crnogorski jezik, glasi:

Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism

Riga, 22. X 2015

The member States of the Council of Europe and the other Parties to the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196), signatory to this Protocol,

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

Desiring to further strengthen the efforts to prevent and suppress terrorism in all its forms, both in Europe and globally, while respecting human rights and the rule of law;

Recalling human rights and fundamental freedoms enshrined, in particular, in the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and its protocols, as well as in the International Covenant on Civil and Political Rights;

Expressing their grave concern about the threat posed by persons travelling abroad for the purpose of committing, contributing to or participating in terrorist offences, or the providing or receiving of training for terrorism in the territory of another State;

Having regard in this respect to Resolution 2178 (2014) adopted by the Security Council of the United Nations at its 7272nd meeting on 24 September 2014, in particular paragraphs 4 to 6 thereof;

Considering it desirable to supplement the Council of Europe Convention on the Prevention of Terrorism in certain respects,

Have agreed as follows:

Article 1 – Purpose

The purpose of this Protocol is to supplement the provisions of the Council of Europe Convention on the Prevention of Terrorism, opened for signature in Warsaw on 16 May 2005 (hereinafter referred to as “the Convention”) as regards the criminalisation of the acts described in Articles 2 to 6 of this Protocol, thereby enhancing the efforts of Parties in preventing terrorism and its negative effects on the full enjoyment of human rights, in particular the right to life, both by measures to be taken at national level and through international co-operation, with due regard to the existing applicable multilateral or bilateral treaties or agreements between the Parties.

Article 2 – Participating in an association or group for the purpose of terrorism

1. For the purpose of this Protocol, “participating in an association or group for the purpose of terrorism” means to participate in the activities of an association or group for the purpose of committing or contributing to the commission of one or more terrorist offences by the association or the group.
2. Each Party shall adopt such measures as may be necessary to establish “participating in an association or group for the purpose of terrorism”, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

Article 3 – Receiving training for terrorism

1. For the purpose of this Protocol, “receiving training for terrorism” means to receive instruction, including obtaining knowledge or practical skills, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of carrying out or contributing to the commission of a terrorist offence.

2. Each Party shall adopt such measures as may be necessary to establish “receiving training for terrorism”, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

Article 4 – Travelling abroad for the purpose of terrorism

1. For the purpose of this Protocol, “travelling abroad for the purpose of terrorism” means travelling to a State, which is not that of the traveller’s nationality or residence, for the purpose of the commission of, contribution to or participation in a terrorist offence, or the providing or receiving of training for terrorism.

2. Each Party shall adopt such measures as may be necessary to establish “travelling abroad for the purpose of terrorism”, as defined in paragraph 1, from its territory or by its nationals, when committed unlawfully and intentionally, as a criminal offence under its domestic law. In doing so, each Party may establish conditions required by and in line with its constitutional principles.

3. Each Party shall also adopt such measures as may be necessary to establish as a criminal offence under, and in accordance with, its domestic law the attempt to commit an offence as set forth in this article.

Article 5 – Funding travelling abroad for the purpose of terrorism

1. For the purpose of this Protocol, “funding travelling abroad for the purpose of terrorism” means providing or collecting, by any means, directly or indirectly, funds fully or partially enabling any person to travel abroad for the purpose of terrorism, as defined in Article 4, paragraph 1, of this Protocol, knowing that the funds are fully or partially intended to be used for this purpose.

2. Each Party shall adopt such measures as may be necessary to establish the “funding of travelling abroad for the purpose of terrorism”, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

Article 6 – Organising or otherwise facilitating travelling abroad for the purpose of terrorism

1. For the purpose of this Protocol, “organising or otherwise facilitating travelling abroad for the purpose of terrorism” means any act of organisation or facilitation that assists any person in travelling abroad for the purpose of terrorism, as defined in Article 4, paragraph 1, of this Protocol, knowing that the assistance thus rendered is for the purpose of terrorism.
2. Each Party shall adopt such measures as may be necessary to establish “organising or otherwise facilitating travelling abroad for the purpose of terrorism”, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

Article 7 – Exchange of information

1. Without prejudice to Article 3, paragraph 2, sub-paragraph a, of the Convention and in accordance with its domestic law and existing international obligations, each Party shall take such measures as may be necessary in order to strengthen the timely exchange between Parties of any available relevant information concerning persons travelling abroad for the purpose of terrorism, as defined in Article 4. For that purpose, each Party shall designate a point of contact available on a 24-hour, seven-days-a-week basis.
2. A Party may choose to designate an already existing point of contact under paragraph 1.
3. A Party’s point of contact shall have the capacity to carry out communications with the point of contact of another Party on an expedited basis.

Article 8 – Conditions and safeguards

1. Each Party shall ensure that the implementation of this Protocol, including the establishment, implementation and application of the criminalisation under Articles 2 to 6, is carried out while respecting human rights obligations, in particular the right to freedom of movement, freedom of expression, freedom of association and freedom of religion, as set forth in, where applicable to that Party, the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights and other obligations under international law.

2. The establishment, implementation and application of the criminalisation under Articles 2 to 6 of this Protocol should furthermore be subject to the principle of proportionality, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discriminatory or racist treatment.

Article 9 – Relation between this Protocol and the Convention

The words and expressions used in this Protocol shall be interpreted within the meaning of the Convention. As between the Parties, all the provisions of the Convention shall apply accordingly, with the exception of Article 9.

Article 10 – Signature and entry into force

1. This Protocol shall be open for signature by Signatories to the Convention. It shall be subject to ratification, acceptance or approval. A Signatory may not ratify, accept or approve this Protocol unless it has previously ratified, accepted or approved the Convention, or does so simultaneously. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the deposit of the sixth instrument of ratification, acceptance or approval, including at least four member States of the Council of Europe.

3. In respect of any Signatory which subsequently deposits its instrument of ratification, acceptance or approval, this Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 11 – Accession to the Protocol

1. After the entry into force of this Protocol, any State, which has acceded to the Convention, may also accede to this Protocol or do so simultaneously.

2. In respect of any State acceding to the Protocol under paragraph 1 above, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months

after the date of the deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 12 – Territorial application

1. Any State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Protocol shall apply.
2. Any Party may, at any later time, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the 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 13 – Denunciation

1. Any Party may, at any time, denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General of the Council of Europe.
3. Denunciation of the Convention automatically entails denunciation of this Protocol.

Article 14 – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the European Union, the non-member States which have participated in the elaboration of this Protocol as well as any State which has acceded to, or has been invited to accede to, this Protocol of:

- a) any signature;
- b) the deposit of any instrument of ratification, acceptance, approval or accession;
- c) any date of entry into force of this Protocol in accordance with Articles 10 and 11;
- d) any other act, declaration, notification or communication relating to this Protocol.

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

Done at Riga, this 22nd day of October 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 European Union, to the non-member States which have participated in the elaboration of this Protocol, and to any State invited to accede to it.

Dodatni protokol uz Konvenciju Savjeta Evrope o prevenciji terorizma

Riga, 22. oktobra 2015. godine

Države lanice Savjeta Evrope i druge Strane Konvencije Savjeta Evrope o prevenciji terorizma (CETS br.196), potpisnice ovog Protokola,

Imaju i u vidu da je cilj Savjeta Evrope postizanje većeg jedinstva među lanicama;

U želji da dodatno objavi napore za spremanje i suzbijanje terorizma u svim njegovim oblicima, kako na evropskom tako i na globalnom nivou, uz istovremeno poštovanje ljudskih prava i vladavine prava;

Pozivaju i se na zajam ena ljudska prava i osnovne slobode, konkretno, Konvenciju za zaštitu ljudskih prava i osnovnih sloboda (ETS br. 5) njene protokole, kao i Međunarodni pakt o pravima čovjeka i političkim pravima;

Izražavaju i veliku zabrinutost zbog prijetnje izazvane od strane lica koja putuju u inostranstvo u cilju vršenja, pomaganja ili u estvovanja u krivi nim djelima terorizma, organizovanja ili prolaska kroz teroristi ku obuku na teritoriji strane države;

U vezi sa tim, imaju i u vidu u Rezoluciju 2178 (2014) usvojenu od strane Savjeta bezbjednosti Ujedinjenih nacija na njegovom 7272. zasjedanju od 24. septembra 2014. godine, a posebno stavove 4-6;

Smatraju i poželjnim da se Konvencija Savjeta Evrope o prevenciji terorizma, u odre enim aspektima, dopuni,

Saglasne su sa sljede im:

**Svrha
lan 1**

Svrha ovog protokola je da dopuni odredbe Konvencije Savjeta Evrope o prevenciji terorizma, otvorenoj za potpisivanje u Varšavi 16. maja 2015. godine (u daljem tekstu "Konvencija") u vezi sa inkriminacijom djela opisanih u lanovima 2-6 ovog protokola, ime e se oja ati napor Strana u prevenciji terorizma i njegovih negativnih efekata na puno uživanje ljudskih prava, posebno prava na život, mjerama koje treba preduzeti i na nacionalnom nivou i kroz me unarodnu saradnju, uz poštovanje važe ih multilateralnih ili bilateralnih ugovora i sporazuma izme u Strana.

**U eš e u udruženju ili grupi u svrhu terorizma
lan 2**

1. U svrhu ovog protokola "u estvovanje u udruženju ili grupi u svrhu terorizma" zna i u estvovati u aktivnostima nekog udruženja ili grupe ija je svrha vršenje ili pomo u vršenju jednog ili više teroristi kih djela od strane udruženja ili grupe.
2. Svaka Strana e preduzeti odgovaraju e mjere koje su neophodne kako bi propisala djelo iz stava 1 ovog lana „u estvovanje u udruženju ili grupi u svrhu terorizma“, kao krivi no, kada je po injeno nezakonito i namjerno.

Prolazak kroz teroristi ku obuku
lan 3

1. "Prolazak kroz teroristi ku obuku" u svrhu ovog protokola, zna i dobijanje instrukcija, uklju uju i sticanje znanja ili prakti nih vještina, od strane drugog lica o izradi ili koriš enju eksploziva, vatrenog oružja ili drugih oružja, štetnih ili opasnih materija ili drugih posebnih metoda i tehnika, u svrhu izvršavanja ili pomaganja u vršenju krivi nih djela iz oblasti terorizma.
2. Svaka Strana e preduzeti odgovaraju e mjere koje su neophodne kako bi propisala djelo iz stava 1 ovog lana „prolazak kroz teroristi ku obuku“, kao krivi no, kada je po injeno nezakonito i namjerno.

Putovanje u inostranstvo radi terorizma
lan 4

1. U svrhu ovog protokola, "putovanje u inostranstvo radi terorizma" zna i putovanje u državu koja nije država putnikovog državljanstva ili prebivališta, radi vršenja, pomaganja ili u estvovanja u krivi nom djelu terorizma, organizovanja ili prolaska kroz teroristi ku obuku.
2. Svaka Strana e preduzeti odgovaraju e mjere koje su neophodne kako bi propisala djelo iz stava 1 ovog lana „putovanje u inostranstvo radi terorizma“, kao krivi no, kada je po injeno nezakonito i namjerno. Pri tome, svaka Strana može definisati potrebne uslove, u skladu sa njenim ustavnim principima.
3. Svaka Strana e usvojiti eventualno neophodne mjere radi definisanja kao krivi nog djela, u skladu sa njenim doma im zakodavstvom, pokušaj izvršenja krivi nog djela kako je izloženo u ovom lanu.

Finansiranje putovanja u inostranstvo radi terorizma
lan 5

1. U svrhu ovog protokola, "finansiranje putovanja u inostranstvo radi terorizma" zna i obezbje ivanje ili prikupljanje, na svaki na in, direktno ili indirektno, finansijskih sredstava za potpuno ili djelimi no omogu avanje putovanja u inostranstvo bilo kojem licu radi terorizma, u skladu sa lanom 4 stav 1 ovog protokola, znaju i da su fondovi u potpunosti ili djelimi no namijenjeni da budu koriš eni u ovu svrhu.

2. Svaka Strana će preduzeti odgovarajuće mјere koje su neophodne kako bi propisala djelo iz stava 1 ovog lana „finansiranje putovanja u inostranstvo radi terorizma“, kao krivi no, kada je po injeno nezakonito i namjerno.

Organizovanje i pomaganje na drugi na in putovanja u inostranstvo radi terorizma lan 6

1. U svrhu ovog protokola, ”organizovanje ili pomaganje na drugi na in putovanja u inostranstvo radi terorizma” zna i bilo koji in organizovanja ili olakšica kojima se pomaže bilo kojem licu u putovanju u inostranstvo radi terorizma, u skladu sa definicijom iz lana 4 stav 1 ovog protokola, znaju i da je tako pružena pomoć radi terorizma.

2. Svaka Strana će preduzeti odgovarajuće mјere koje su neophodne kako bi propisala djelo iz stava 1 ovog lana „organizovanje i pomaganje na drugi na in putovanja u inostranstvo radi terorizma“, kao krivi no, kada je po injeno nezakonito i namjerno.

Razmjena informacija lan 7

1. Ne dovode i u pitanje lan 3 stav 2 ta ka a Konvencije i u skladu sa domaćim zakonodavstvom i postojećim međunarodnim obavezama, svaka Strana će preduzeti mјere koje su neophodne radi jačanja pravovremene razmjene svih raspoloživih i bitnih informacija između Strana u vezi sa licima koja putuju u inostranstvo radi terorizma, u skladu sa lanom 4 ovog protokola. U tu svrhu, svaka Strana će odrediti kontakt osobu, dostupnu dvadeset etiri sata, sedam dana nedeljno.

2. U skladu sa stavom 1 ovog lana, Strana može odlučiti da imenuje već postojeći kontakt osobu.

3. Kontakt osoba Strane će moći da komunicira sa kontakt osobom druge Strane na ubrzan na in.

Uslovi i garancije lan 8

1. Svaka Strana osigurava da implementacija ovog protokola, uključujući i definisanje, implementaciju i primjenu inkriminacije iz lanova 2-6, bude sprovedena uz poštovanje ljudskih prava, naročito prava na slobodu kretanja, izražavanja, udruživanja i vjeroispovjeti, kako je

navedeno, i kada je to za Stranu primjenljivo, u Konvenciji za zaštitu ljudskih prava i osnovnih sloboda, Me unarodnom paktu o gra anskim i politi kim pravima, i drugim obavezama u skladu sa me unarodnim pravom.

2. Definicija, implementacija i primjena inkriminacija iz lanova 2-6 ovog protokola treba nadalje da podliježe principu proporcionalnosti, uz poštovanje legitimnih ciljeva i njihovih neophodnosti u demokratskom društvu, uz potrebu za isklju ivanjem bilo kojeg oblika arbitarnosti i diskriminatorskog ili rasisti kog tretmana.

Odnos izme u Protokola i Konvencije lan 9

Rije i izrazi koriš eni u ovom protokolu se interpretiraju u duhu Konvencije. Me u Stranama, sve odredbe Konvencije, izuzev lana 9, e se primjenjivati u skladu sa tim.

Potpisivanje i stupanje na snagu lan 10

1. Ovaj protokol ostaje otvoren za potpisivanje Potpisnicama Konvencije. On podliježe ratifikaciji, prihvatanju ili odobrenju. Potpisnica ne može ratifikovati, prihvativiti ili odobriti ovaj protokol ukoliko nije prethodno ratifikovala, prihvatile ili odobrila Konvenciju, ili to uradi istovremeno. Instrumenti ratifikacije, prihvatanja ili odobrenja se deponuju kod generalnog sekretara Savjeta Evrope.

2. Ovaj protokol stupa na snagu prvog dana u mjesecu po isteku tri mjeseca od deponovanja šest instrumenata ratifikacije, prihvatanja ili odobravanja, uklju uju i najmanje etiri zemlje lanice Savjeta Evrope.

3. U odnosu na bilo koju Potpisnicu koja naknadno deponuje instrument ratifikacije, prihvatanja ili odobrenja, ovaj protokol stupa na snagu prvog dana u mjesecu po isteku tri mjeseca od datuma deponovanja instrumenta ratifikacije, prihvatanja ili odobrenja.

Pristup Protokolu
lan 11

1. Svaka država koja je pristupila Konvenciji, po stupanju na snagu ovog protokola može tako e pristupiti ovom protokolu ili to u initi istovremeno.
2. Protokol e u odnosu na bilo koju državu koja pristupa Protokolu, u skladu sa stavom 1, stupiti na snagu prvog dana u mjesecu po isteku tri mjeseca od deponovanja instrumenta prihvatanja od strane generalnog sekretara Savjeta Evrope.

Teritorijalna primjena
lan 12

1. Svaka država ili Evropska unija može, u momentu potpisivanja ili deponovanja svog instrumenta ratifikacije, prihvatanja ili odobrenja, precizirati teritoriju ili teritorije na koje se ovaj protokol odnosi.
2. Svaka Strana može, u bilo koje kasnije vrijeme, deklaracijom adresiranom na generalnog sekretara Savjeta Evrope, proširiti primjenu ovog protokola na bilo koju teritoriju koja se navodi u izjavi. Protokol, u odnosu na tu teritoriju, stupa na snagu prvog dana u mjesecu po isteku tri mjeseca od prijema izjave kod generalnog sekretara.
3. Svaka izjava data u skladu sa dva prethodna stava, može, u odnosu na bilo koju teritoriju navedenu u takvoj deklaraciji, biti povu ena putem obavještenja upu enom generalnom sekretaru Savjeta Evrope. Povla enje e postati efektivno prvog dana u mjesecu po isteku tri mjeseca od prijema obavještenja adresiranog na generalnog sekretara.

Otkaz
lan 13

1. Svaka Strana može, u svakom momentu, otkazati ovaj protokol putem obavještenja generalnom sekretaru Savjeta Evrope.
2. Takav otkaz stupa na snagu prvog dana u mjesecu po isteku tri mjeseca od prijema obavještenja adresiranog na generalnog sekretara Savjeta Evrope.
3. Otkaz Konvencije automatski povla i otkaz Protokola.

**Obavještenje
lan 14**

Generalni sekretar Savjeta Evrope obavještava sve države lanice Savjeta Evrope, Evropsku uniju, države koje nisu lanice a koje su u estvovale u izradi ovog protokola, kao i svaku drugu državu koja je pristupila ili je pozvana da pristupi ovom protokolu o:

- a) svakom potpisivanju;
- b) deponovanju bilo kakvih instrumenta ratifikacije, prihvatanja, odobrenja ili pristupanja;
- c) stupanju na snagu ovog protokola u skladu sa lanovima 10 i 11;
- d) bilo kakvom aktu, izjavi, obavještenju ili komunikaciji u vezi sa ovim protokolom.

U potvrdu toga, niže potpisani, za to valjano ovlaš eni, potpisuju ovaj protokol.

Sastavljeno u Rigi, dvadesetdrugog oktobra, dvijehiljade petnaeste, na engleskom i francuskom jeziku, s tim da su oba teksta jednako važe a, u jednom primjerku koji e biti deponovan u arhivama Savjeta Evrope. Generalni sekretar Savjeta Evrope proslijedi e ovjerene kopije svim državama lanicama Savjeta Evrope, Evropskoj uniji, državama koje nisu lanice a koje su u estvovale u izradi ovog protokola, i svakoj državi pozvanoj da pristupi protokolu.

lan 3

Ovaj zakon stupa na snagu osmog dana od dana objavlјivanja u „Službenom listu Crne Gore – Meunarodni ugovori“.