

Council of Europe Convention against Trafficking in Human Organs in brief

Trafficking in human organs is a problem of global proportions that violates human rights and dignity, and is a serious threat to public health. It is often linked to transnational organised crime, which profits from the vulnerable situation of donors, and emerges in the context of the inability of countries to cope with the transplantation needs of their patients. In 2012, more than 68,000 people were waiting for a kidney transplant in Europe.

Human organ trafficking often takes place in the context of “transplant tourism”, which usually involves wealthy recipients travelling to mostly developing countries where poor people sell their organs.

The World Health Organisation (WHO) estimates that some 10,000 black market transplants are carried out every year. Global Financial Integrity, an NGO which analyses illicit financial flows, estimates that the illicit human organ trade generates illegal profits of between \$600 million and \$1.2 billion per year.

The [Council of Europe Convention against Trafficking in Human Organs](#) provides a comprehensive framework to prevent and to combat trafficking in human organs, and to protect the victims of this crime. The treaty provides an opportunity for concerted action on global level by harmonising national legislation, and lays the foundation for international co-operation.

Governments will be required to take measures to establish as a criminal offence the illicit removal of human organs from a living or deceased donor and their use for transplantation or other purposes, and other related acts. These include:

- the removal of human organs when it 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 domestic law;
- where, in exchange for the removal of organs, the living donor or a third party, receive a financial gain or comparable advantage;
- where in exchange for the removal of organs from a deceased donor, a third party receives a financial gain or comparable advantage;
- the illicit solicitation or recruitment of organ donors and recipients,
- the preparation, preservation and storage of illicitly removed organs, as well as their transportation, transfer, receipt, import and export.

The convention also requires states to take measures to ensure that commercial companies, associations and similar legal entities (legal persons) can be held liable for human organ trafficking offences, when committed for their benefit by anyone in a leading position in them, or as a result of lack of supervision or control.

States Parties to the treaty may consider aggravating circumstances:

- the death or serious damage caused to the physical or mental health of the victim;
- when a person abuses his or her position to commit the offence;
- when the offence was committed in the framework of a criminal organisation;
- when it is committed against a child or a particularly vulnerable person.

The treaty leaves open to states to decide whether to prosecute donors or recipients, since these persons can be considered also as victims.

Protection measures for victims include physical, psychological and social assistance, legal aid, and providing the right to compensation from the perpetrators.

The convention aims to prevent trafficking in human organs, for example, by requiring states to ensure the transparency of their national system for transplantation of organs, and that access to transplant services is equitable.

The convention was adopted by the Committee of Ministers of the Council of Europe on 9 July 2014 and will be opened for signature on 25 March 2015 in Santiago de Compostela (Spain). It is open for signature by Council of Europe member and non-member states, as well as by the European Union, and will enter into force when it has been ratified by five states.

A specific body, composed of representatives of the Parties, will be set up to monitor the implementation of the convention.

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