



14/04/2015

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

INTERNATIONAL HIGH-LEVEL CONFERENCE
ON
THE FIGHT AGAINST TRAFFICKING IN HUMAN ORGANS

25-26 March 2015
Santiago de Compostela, Spain

CONCLUSIONS

On the occasion of the opening for signature of the Santiago de Compostela Convention against trafficking in human organs (hereafter, the Convention), the Council of Europe organised, in co-operation with the Spanish authorities, an International high-level Conference on the fight against trafficking in human organs.

The conference brought together over 250 government experts, representatives of legal and law enforcement authorities, policy-makers, medical professionals, health authorities and academic experts from Council of Europe member and observer States, as well as from Algeria, Israel, Jordan, Morocco, Philippines and Tunisia.

The conference was divided into six separate sessions where 20 keynote speakers addressed organ trafficking and the new Convention from as many different perspectives, such as substantive criminal law, jurisprudence, investigation, prosecution and adjudication of relevant crimes and ethics, the medical profession, public health and international co-operation. The keynote interventions were followed by a question and answer session and a discussion.

At the closing session, the moderators of the sessions summed up the discussions they had facilitated. On this basis, the Chair of the closing session prepared the present conclusions of the conference:

Trafficking in human organs is a global problem, as highlighted by the joint Council of Europe/ United Nations Study, which gave the impetus to the preparation/drafting of the Convention.

Trafficking in human organs violates the dignity of human beings and the integrity of the human body, and it undermines the trust in the efficiency and fairness of the public health system. It also raises serious ethical issues. Therefore the Council of Europe, the organisation whose main purpose is to safeguard and promote Human Rights and democratic values, took the initiative to draft the new Convention.

The new Convention is the first international legally-binding document to address the issue of organ trafficking primarily from the criminal law viewpoint.

The Convention builds on and adds value to already established international law principles. Amongst them is the principle that the human body cannot serve as source of profit - there can be no price tags attached to parts of the human body. The Convention closes a number of existing legal loopholes thus providing for more effective and efficient action against trafficking in human organs at both national and international level.

The Convention prohibits the removal of human organs when done without the free, informed and specific consent of the living or deceased donor or when the donor or a third party has been offered or received a financial gain.

When the removal of human organs is linked to the crime of trafficking in human beings, it can be very difficult to prove the absence of valid consent or the existence of economic

gain. By establishing trafficking in human organs as a criminal offence, the new Convention will allow States to combat this type of illegal behaviour as a separate crime.

In addition, the Convention covers the whole chain of criminal acts relevant to the trafficking in human organs - many of them “white collar crimes” involving illicit solicitation and recruitment of donors, preparation, preservation, storage, transportation, receipt, import and export of illegally removed organs, and also aiding or abetting and attempt.

Trafficking in human organs cannot occur without some form of involvement of the medical or public health institutions. Therefore, the Convention also establishes corporate liability for relevant offences.

The Convention will increase the level of harmonisation between domestic legal systems, which is important from the viewpoint of the double criminality principle. The Convention will foster better international co-operation in criminal law matters.

In order to effectively fight trafficking in human organs, a multidisciplinary approach is called for, with active involvement and commitment at State level.

Preventive measures are needed, at national and international level. One of the key tasks is to raise awareness in the medical profession, notably on the responsibility of health professionals to report criminal behaviour. Measures to spread information amongst vulnerable groups, the potential source of donors, are also important.

Systems for the collection of quantitative data should be set up in order to reliably estimate the volume of the trafficking.

In the future, following the entry into force of the Convention, the States parties could benefit from sharing their different experiences in combating the trafficking in human organs. The spread of good practices could, in particular, take the form of guidelines containing model provisions that parties may use domestically. Also the lessons learnt from the criminalisation, or not, of certain acts relating to the victims of trafficking in human organs could be exchanged, knowing that the victims are always vulnerable, in a situation of need or under economic coercion.

On the day of its opening for signature, 14 member States¹ of the Council of Europe signed the Convention. Broad accession to the Convention is essential in the fight against a crime that for the most part is transnational in scope. The Convention provides a unique opportunity for concerted action on a global level by harmonising national legislations, identifying the various offences that constitute trafficking in human organs and laying down the foundations for a more efficient cross-border co-operation.

¹ Albania, Austria, Belgium, the Czech Republic, Greece, Italy, Luxembourg, the Republic of Moldova, Norway, Poland, Portugal, Spain, Turkey and the United Kingdom.