



05/03/2015

**EUROPEAN COMMITTEE ON CRIME PROBLEMS**  
**(CDPC)**

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

25-26 March 2015  
**Santiago de Compostela, Spain**

**CONCEPT PAPER**

## Background of the Conference:

The trafficking in human organs (THO) is a problem of global proportions that violates basic fundamental freedoms, human rights and dignity and constitutes a direct threat to public health, integrity, freedom and often the life of individuals. It is also frequently linked to the activities of transnational organised crime groups, who profit from a vulnerable situation of the donor. THO is an international problem that demands a response from governments, legislative institutions and international organisations. THO emerges in the context of the inability of countries to cope with the transplantation needs of their patients. The crime erodes the public's confidence in existing transplantation systems therefore perpetuating its root cause, organ shortage.

The **Council of Europe Convention Against Trafficking in Human Organs** (hereinafter, the Convention) was adopted by the Committee of Ministers of the Council of Europe on 9 July 2014.<sup>[1],[2]</sup> The Convention represents a milestone in the fight against practices in transplantation that are seriously damaging legally protected interests. Combined with existing international legal tools against human trafficking, including trafficking in persons with the purpose of the removal of organs, the Convention provides a comprehensive framework to curtail distinct types of transplant-related crimes. Taking into account the minimal intervention principle, the main objective of the criminal law provisions contained in the Convention is to safeguard legally protected interests from serious threats.

The Convention is of a global dimension: it is open for signature and ratification not only to Council of Europe member States and observer countries, but to any country in the world. The signing ceremony of the Convention will take place in Santiago de Compostela (Spain) on 25 March 2015. The Ceremony will be followed by an high-level International Conference on the fight against Trafficking in Human Organs.

Due to the complex nature of THO, a multidisciplinary approach is crucial to combat this crime. To ensure the effectiveness of the Convention, the views and concerns of the many stakeholders that participate in the identification, reporting, investigation, prevention and prosecution of THO need to be taken into account. The protection of victims is another key element of the Convention, since victims of THO are in a vulnerable situation. This International Conference will bring clarity to the international arena and contribute to a greater understanding of the crimes against THO that have been included in the Convention.

Wide accession to the Convention is essential in the fight against a crime that for the most part has a transnational scope. The Convention provides a unique opportunity for concerted action on a global level by harmonising national legislations, by identifying the various activities that constitute THO, and by laying down a foundation for cross-border co-operation.

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[1] Council of Europe Convention against Trafficking in Human Organs, available at: [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/Dec%282014%291205/10\\_3&Language=lanEnglish&Ver=app10&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/Dec%282014%291205/10_3&Language=lanEnglish&Ver=app10&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864).

[2] Explanatory Report to the Council of Europe Convention against Trafficking in Human Organs. Available at: <https://wcd.coe.int/ViewDoc.jsp?Ref=CM%282013%2979&Language=lanEnglish&Ver=addfinal&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>.

### **Aims of the Conference:**

The Conference aims at bringing together governmental experts, representatives of law enforcement authorities (judges, prosecutors and police forces) and policy-makers and academic experts in order to:

- share the views, concerns and approaches of the different stakeholders that participate in the fight against trafficking in human organs;
- discuss the benefits and challenges in ratifying the Convention;
- encourage states to sign and ratify the Convention.

### **Structure of the Conference:**

The Conference will be divided into the following five sessions:

#### **a) Session I: Trafficking in human organs: international setting**

The existence of a world-wide illicit trade in human organs for the purposes of transplantation is a well-established fact, and various tools have been adopted, both at national and international levels, to counter this criminal activity, which presents a clear danger to both individual and public health. It is also in breach of human rights and fundamental freedoms and an affront to the very notion of human dignity and personal liberty.

An explanation of the origin and purpose of the Convention is necessary to understand why this instrument was needed: its main aim is to contribute in a significant manner to the eradication of trafficking in human organs by preventing and combating this crime, through the introduction of new offences which supplement the existing international legal instruments in the field of trafficking of human beings for the purpose of the removal of organs.

The criminal nature of the Convention will be also covered in this session with a look at the challenge of preserving the legal acquis of the Council of Europe – that the human body and its parts as such shall not give rise to financial gain. The current world-wide situation in the trafficking in human organs will be described.

#### **b) Session II: Legal perspective**

The cases in which the Convention calls on governments to establish as a criminal offence the illegal removal of human organs from living or deceased donors will be analysed in this session. In accordance with the Convention, the illicit removal of human organs and their use for the purposes of implantation or other purposes, as well as the illicit solicitation or recruitment of organ donors and recipients, and the offering or requesting of undue advantages are criminal offences.

However, despite the existence of several other international legally binding instruments dealing with similar matters, there are still important loopholes when it comes to the

specific act of trafficking in human organs. The Convention seeks to harmoniously coexist with other treaties or instruments in the field.

**c) Session III: Law enforcement and the international co-operation perspective**

The examination of the profiles of the victims and perpetrators of trafficking in human organs is a central issue. The Convention obliges Parties to co-operate, on the basis of relevant international and national law, for the purpose of investigations or criminal proceedings concerning crimes established under the Convention, including for the purpose of carrying out seizure and confiscation measures.

**d) Session IV: Health-care perspective**

The successful fight against trafficking in human organs requires deep involvement and awareness raising among health professionals about their role in executing, facilitating or detecting transplant related crimes and in reporting them to the authorities.

The Convention criminalises healthcare professionals and others who remove, transfer or use illicitly obtained organs. Furthermore, health professionals are placed in a unique position to prevent and detect these crimes. Desperate patients seeking a solution for the failure of one of their organs often seek information from health professionals when they are considering an illicit transplant and always require care after receiving such a transplant. The Convention criminalises aiding or abetting the commission of any of the criminal offences under the definition of trafficking in human organs, whether they are committed domestically or abroad. Therefore, it identifies the obligation of health professionals to discourage and prevent any harm to individuals by not providing patients with any information or services that could enable them to purchase illicitly obtained organs and by appropriately screening all potential donors to avoid any transplant related crimes. Health professionals are further obliged to report illicit conducts by peers or patients to law enforcement authorities.

**e) Session V: Prevention measures and victim protection**

The Convention calls for states to employ preventive measures and protect the victims of trafficking in human organs. This session opens with a look at how to define and protect these victims. The Convention provides for the protection of the rights and interests of victims and sets out a non-exhaustive list of procedures designed to support victims of related crimes. The role of effective national transplant systems in preventing and addressing organ trafficking is an important element to be taken into account. Addressing some of the root causes of trafficking of human organs, the Convention obliges its Parties to ensure the existence of a transparent domestic system for the transplantation organs and equitable access to transplantation services for patients.

#### **f) Interactive Session: Trafficking in human organs**

This interactive session will discuss the main input of the Convention into the current legal framework and will explore the role and implications of the different stakeholders involved when faced with cases of trafficking in human organs. The participants in the Conference will understand at a glance the main benefits of the Convention, the main actions which constitute trafficking in human organs and the practices to be criminalised under the Convention. The speakers in this interactive session will help the moderator to answer a series of different questions around this global phenomenon.

#### **Targeted participants:**

The Conference will bring together governmental experts, representatives of law enforcement authorities (judges, prosecutors and police forces), representatives dealing with organ transplantation and policy-makers responsible for combating trafficking in human organs from the 47 member States of the Council of Europe and States enjoying observer status with the Council of Europe, government experts from regions outside Europe and representatives of relevant intergovernmental organisations and academic experts.

Total: ca. 200.

**Duration:** 1.5 days

#### **Other participants:**

- Parliamentary Assembly of the Council of Europe (PACE)
- Congress of Local and Regional Authorities of the Council of Europe (The Congress)
- Commissioner of Human Rights
- Council of Europe committees: Committee on Bioethics (DH-BIO), European Committee on Transplantation of Organs (CD-P-TO) Group of Experts on Action against Trafficking in Human Beings (GRETA).
- European Union
- United Nations
- United Nations Office on Drugs and Crime (UNODC)
- World Health Organization (WHO)
- International Criminal Police Organization (INTERPOL)
- EUROPOL
- Organisation for Security and Co-operation in Europe (OSCE)
- Organisation of American States (OAS)
- Conference of Ministers of Justice of the Iberoamerican countries (COMJIB)
- Pan-American Health Organization (PAHO)
- Red Consejo Iberoamericano de Donación y Trasplante (RCIDT)