T-THO BU (2024) 02

Committee of the Parties to the Council of Europe Convention against Trafficking in Human Organs (CETS No. 216)

(SANTIAGO DE COMPOSTELA COMMITTEE)

Questionnaire for the 1st thematic monitoring round:

Prevention and awareness mechanisms to counter trafficking in human organs (THO)[1]

As adopted by the Santiago de Compostela Committee on the 3rd December 2024

Replies should be addressed to the Santiago de Compostela Committee Secretariat (organtrafficking@coe.int)

by **30 May 2025**

[1] Theme adopted by the Committee at its plenary meeting on 26 October 2023.

NAME OF THE COUNTRY	Montenegro

Please specify which state bodies/authorities (and, at the discretion of the country, where relevant, civil society and external contributors) contributed to responding to this questionnaire.

- **Body/authority responsible for collecting the replies: Health Insurance Fund of Montenegro**

- **State bodies/agencies (where relevant, civil society and external contributors) that contributed to responding to this questionnaire: Ministry of Health of Montenegro, Clinical Center of Montenegro**

Introduction

1. The Council of Europe Convention against Trafficking in Human Organs (the Convention) which entered into force on 1 March 2018, requires the criminalisation of offences set out in the Convention in Articles 4-8. It sets out that states, in Europe and beyond, shall adopt specific legislation to prevent and combat the trafficking in human organs by criminalising certain acts, protecting the rights of victims of the offences established under the Convention, and promoting national and international co-operation.

2. The Committee of the Parties to the Convention (also known as the "Santiago de Compostela Committee"), established to monitor whether Parties effectively implement the Convention (Rule 26 of the Committee's Rules of Procedure), decided that:

> *"3. The monitoring round shall be initiated by addressing a questionnaire on the implementation of the relevant provisions of the Convention with respect to the selected theme. The Parties shall respond to the questionnaire within the time limit set by the Santiago de Compostela Committee."*

3. As prevention and awareness is key to preventing and combating the trafficking in human organs the Santiago de Compostela Committee decided that the first monitoring round would focus on the "Prevention and awareness mechanisms to counter trafficking in human organs".[2]
4. On 3rd December 2024, the Santiago de Compostela Committee adopted this thematic questionnaire. Its purpose is to collect specific information on how Parties implement the Santiago de Compostela Convention with respect to the prevention and awareness mechanisms to counter trafficking in human organs. The replies to the questionnaire

[2] Committee of the Parties of the Convention against Trafficking in Human Organs (Santiago de Compostela Committee), *List of decisions*, 4th Plenary Meeting (25-26 October 2023), T-THO (2023) LD2, paragraph 6.2.

will be assessed against the related background information provided by the Parties when answering the "General Overview" questionnaire on the implementation of the Santiago de Compostela Convention (hereinafter "Country Profile Questionnaire" or "CPQ"), and any other relevant information from reliable sources.

5. It is recalled that, in accordance with Rule 27 of the Committee's Rules of Procedure:

> *"(…) 2. The secretariat shall address such questionnaires to the Parties through the member in the Santiago de Compostela Committee representing the Party to be monitored and who will act as "contact point".*
> *3. Parties shall coordinate with their respective domestic authorities to collect replies, which shall be submitted to the secretariat in one of the official languages of the Council of Europe within the time limit set by the Santiago de Compostela Committee. The replies to the questionnaires shall be detailed, as comprehensive as possible, answer all questions and contain all relevant reference texts. The replies shall be made public, unless a Party makes a reasoned request to the Santiago de Compostela Committee to keep its reply confidential.*
> *4. The Santiago de Compostela Committee may also receive information on the implementation of the Convention from non-governmental organisations and civil society involved in preventing and combating trafficking in human organs, in one of the official languages of the Council of Europe and within the time limit set by the Santiago de Compostela Committee. The secretariat transmits these comments to the Party or Parties concerned.*
> *5. The secretariat may request additional information if it appears that the replies are not exhaustive or are unclear. Where warranted, with the consent of the Party or Parties concerned and within the limits of budgetary appropriations, the Bureau may decide to mandate an on-site visit to the Party or Parties concerned to clarify the situation. The Bureau shall establish guidance as to the procedure governing the on-site visits pending any official guidelines agreed by the Santiago de Compostela Committee."*

PRELIMINARY REMARKS

6. The questions in this questionnaire are grouped around Article 21, paragraphs1 and 2 of the Santiago de Compostela Convention concerning issues of preventive actions, data collection and exchange of information, training to healthcare professionals and relevant officials, and promotion of awareness-raising campaigns addressed to the general public.

7. This thematic questionnaire does not seek to collect information on the general legislative and institutional framework established by Parties to implement the Convention. Article 21, paragraphs 1, and 2 are aimed at providing for transparency in domestic transplantation systems of human organs, equitable access to transplantation services for patients, and adequate collection, analysis and exchange of information related to the offences covered by this Convention in cooperation between relevant authorities. This article also aims at strengthening the training of healthcare professionals and relevant officials and at the promotion of awareness-raising campaigns addressed to the public. This questionnaire focuses more narrowly on practical measures taken to prevent and combat against trafficking in human organs and includes highlighting protocols to identify and report trafficking in human organs, training programmes aimed at preventing this activity, and raising awareness for patients and other groups.

8. Responses to this thematic questionnaire will be understood against the background information submitted by Parties in reply to the CPQ. Whenever warranted, Parties are invited to refer to such information. Where questions overlap between the CPQ, and this questionnaire, the replies to the latter will be assessed by the Committee to prepare its implementation reports of the Convention concerning the monitoring theme.

9. If there are differences with the information provided in response to the CPQ and the 1st monitoring round, Parties are kindly requested to specify which State bodies/agencies and, where relevant, NGOs, contributed to responding to this questionnaire.

10. Parties are kindly requested to specify whether the measure in criminal law, administrative law, and/or whichever other measure is involved when responding to each question and each part of the question.

11. Parties are kindly requested to:

    a. answer the questions regarding central, regional and local levels, to the extent possible. Federal states may, with respect to their sovereign entities, answer the questions in a summarised way;
    b. provide the relevant text for the relevant provision (or a summary thereof), in English or French only, whenever questions/answers refer to legislation or other regulations.

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 co-operation 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 healthcare 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.

Explanatory Report

Chapter V – Prevention measures

Article 21 – Measures at domestic level

125. The purpose of Article 21 is to prevent trafficking in human organs by obliging Parties to address some of its root causes. Hence Parties shall in accordance with paragraph 1 ensure the existence of a transparent domestic system for the transplantation organs; equitable access to transplantation services for patients, and finally, adequate collection, analysis and exchange of relevant information pertaining to trafficking in human organs between all relevant domestic authorities. Parties may wish to consider the provisions of Articles 3 – 8 of the Additional protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin, when reviewing their current transplantation systems in the light of this Article.

126. The issue of "transparency" is important, because it reduces the risk of illicitly removed organs being introduced into the legitimate domestic transplantation system. "Equitable access to transplantation services" means that Parties should ensure a "level playing field" in terms of the allocation of organs for all patients awaiting implantation. Ensuring a strong cooperation between the many different competent authorities involved in combatting trafficking in human organs is a prerequisite for achieving any measure of success. In this respect, the negotiators decided to put special emphasis on the collection, analysis and exchange of information between these authorities, thus enabling them to take timely action to prevent the crimes set out in the Convention.

127. Paragraph 2, letter a, obliges Parties to take measures, as appropriate, with regard to providing information and strengthening training, e. g. on how to detect indications of trafficking in human organs, for healthcare professionals and relevant officials. According to letter b, Parties are furthermore obliged to promote, as appropriate, awareness-raising campaigns addressed to the general public on the unlawfulness and dangers of trafficking in human organs.

Identifying and reporting of THO

This section aims to collect information on internal protocols to identify trafficking in human organs for purposes of transplantation and other purposes, and other forms of illicit removal and illicit transplantation.

Question 1.

Which legislative, policy, strategic, and other measures have been taken to develop and implement protocols to facilitate the identification of trafficking in human organs and other forms of illicit removal and illicit transplantation[3]:

By those involved in the supply, procurement and transplantation programmes (both public and private agents

- A comprehensive amendment to the Criminal Code has been implemented and the Convention against Trafficking in Human Organs has been fully implemented. Also, all relevant state authorities have been informed of the relevant amendments and certain obligations have been imposed on everyone, in order to identify any possible case in a timely manner and to inform the competent authorities. In this specific case, healthcare workers are obliged to report any suspicious case that could indicate possible trafficking in human organs. It is important to note that organ transplants are not carried out in Montenegro, and for this reason there are no cases of trafficking in human organs in Montenegro.

Question 2.

Specify legislative, policy, strategic, and other measures that have been taken to ensure transparency and fairness in the domestic system for the transplantation of organs:

a. Please state if there is an audit of the donation and transplants, and the transplantation system.

- The organ transplantation system in Montenegro is not developed. Montenegro is a country with a population of only 600,000, and for this reason, the transplant system is not developed, but patients are referred at the expense of the Health Insurance Fund to countries with which we have an Agreement. In Montenegro, the law only allows transplants from living related donors and cadaveric transplants. The donor program in Montenegro is not developed yet. The state is currently trying to develop a donor program, and media campaigns are being conducted to encourage citizens to take out a donor card.

b. If so, is this an independent audit, whether internal or external to the organisation?

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c. Does the audit have as an aim the identification of weaknesses in systems that hinder or do not facilitate the detection and reporting of suspected offences contained in articles 4 to 8, and 9 in this Convention?

[3] "other forms of illicit removal and illicit transplantation" has the meaning provided by paragraph 20 of the Explanatory Report and by Article 4, paragraph 4, and Article 6 of the Convention.

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d. Please state the frequency of such audits

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e. Are the audits mandatory or voluntary?

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Data Collection, Analysis, and Exchange of Information

This section concerns the effective collection, collation, and analysis of data, and exchange of information related to the offences covered by this Convention between all relevant authorities that support the identification and prevention of trafficking in human organs for purposes of transplantation and other purposes, and other forms of illicit removal and illicit transplantation.

Question 3.

a. Which legislative, policy or other measure mandates and supports the collection, collation, analysis of data and the exchange of information between authorities in order to enable them to take timely actions to prevent the crimes set out in this Convention?

- Article 254 paragraph 1 of the Law on Criminal Procedure stipulates that officials and responsible persons in state bodies, local self-government bodies, public enterprises and institutions are obliged to report criminal offenses for which they are prosecuted ex officio, of which they have been informed or for which they are found to have committed in the performance of their duties. Furthermore, in paragraph 2 of the same article, it is prescribed that the duty from paragraph 1 of this article is also held by all natural and legal persons who, based on the law, have certain public powers or are professionally engaged in the protection and security of people and property, health care of people, i.e. guarding, upbringing or education of minors, if they are found to have committed any criminal offense in connection with their activity.
- It follows from the above that, in addition to the fact that all holders of public authority are obliged to cooperate and exchange information, health workers also have a legal obligation to report to the competent judicial authorities if they are aware that a criminal offense has been committed for which they are being prosecuted ex officio, and it is certainly every form of trafficking in human organs.

b. Please indicate if there is a system in place to collect, collate and analyse data relating to offences covered by this Convention. When did this system begin to operate?

- There is no specific system for collecting and analyzing such data, because there are currently no suspected cases, and if there were, it would be a very small number. For this reason, no special system has been developed for collecting data, but upon reports from healthcare workers, the police and prosecutor's office immediately take legal measures within their jurisdiction.

c. Which authority has the primary responsibility for the collection, collation and analysis of data specific to offences covered by this Convention?

- The Police Department, given that this body is the first to receive notifications about such cases.

d. Which authority is responsible for the preparation and dissemination of such reports?

- There are no special reports.

e. Are reports shared with all relevant authorities? Please also include the frequency of such reporting.

- There are no special reports.

f. Which authorities are involved in the exchange of information and reports?

- The exchange of information includes the police, prosecutors, and healthcare institutions that may be the source of such information.

g. Do any relevant authorities not share data? If so, please specify the legal reason for not doing so.

- According to the law, everyone is required to share information.

h. Do the measures and systems permit the exchange of information with relevant authorities in different countries (at both the national and international levels)? If so, please indicate whether there is a designation of a single contact point for this exchange.

- Information exchange is possible in accordance with the Law on International Legal Assistance in Criminal Matters. Also, the police and security services share information with partner foreign services, in accordance with the international obligations of the state of Montenegro.

Prevention and Training

This section aims to collect information on policies, strategies, plans and activities to prevent the trafficking in human organs for purposes of transplantation and other purposes, and other forms of illicit removal and transplantation. The questions concern all those whose responsibilities it is to procure and supply human organs for human transplantation and those whose responsibilities it is to prevent and combat the aforementioned activities.

Question 4

Which legislative, policy, strategic and other measures have been taken to provide training to prevent the trafficking in human organs for purposes of transplantation and other purposes, and other forms of illicit removal and illicit transplantation to:

a. those involved in all the stages included in the process of the procurement, supply, and transplantation programmes (both public and private agents)?

- Transplantation programs have not been developed in Montenegro, so training in this regard could not be conducted.

b. Specialist doctors who monitor and treat recipients whose transplant has been performed in another country outside their usual place of residence?

- No training has been provided for this category of persons, but they are familiar with the provisions of the Criminal Code regulating the subject matter.

c. Other immunology services that perform donor-recipient histocompatibility studies for human organ transplantation?

- No training has been provided for this category of persons, but they are familiar with the provisions of the Criminal Code regulating the subject matter.

d. other logistical services, including transportation, for human organs for transplantation?

- No training has been provided for this category of persons, but they are familiar with the provisions of the Criminal Code regulating the subject matter.

e. allied healthcare professionals and officials, law enforcement, customs/border surveillance services, and the regulatory authorities providing oversight of the human organ transplantation authority?

- No training has been provided for this category of persons, but they are familiar with the provisions of the Criminal Code regulating the subject matter.

f. Specialised criminal investigation units/bodies in the investigation of offences covered by this Convention?

- No training has been provided for this category of persons, but they are familiar with the provisions of the Criminal Code regulating the subject matter.

Question 5

Are there any oversight programmes to assess the frequency and effectiveness of the training provided? If so, are there revision programmes to ensure remedial actions for any deficiencies identified?

- There is no training, and therefore no oversight programmes for them.

Awareness Raising

This section concerns awareness-raising programmes aimed at identifying measures for educating the general public, and civil society, on the risks and unlawfulness of trafficking in human organs.

Question 6

Please elaborate on the strategies, policies and other measures that have been planned or implemented:

a. To educate the general public on risks associated with the trafficking in human organs.

- Considering that not a single case of human organ trafficking has been recorded in Montenegro, nor was there any suspicion of such a case, no special campaigns have been carried out.

b. To encourage civil society, including patients' associations, academia, publishers, media, online platforms, industry, and other relevant organisations, to engage in

   a. raising public awareness campaigns, and, or

   b. the promotion of awareness-raising measures provided by public authorities

   on the unlawfulness and dangers of trafficking in human organs for human transplantation.

- Considering that not a single case of human organ trafficking has been recorded in Montenegro, nor was there any suspicion of such a case, no special campaigns have been carried out.

c. To raise awareness of media, including social media and e-commerce platforms, and other virtual sites that facilitate information linking potential donors and recipients of human organs for transplantation of the illegality of illicit solicitation, recruitment, offering and requesting of undue advantage, including the making of a financial gain or other comparable advantage.

- Considering that not a single case of human organ trafficking has been recorded in Montenegro, nor was there any suspicion of such a case, no special campaigns have been carried out.

Question 7

Are there national oversight measures adopted to assess the effectiveness of awareness campaigns carried out by the institutions/organisations, whether public or private? If so, please specify.

- There are no national measures in Montenegro.