

**COMMITTEE OF THE PARTIES**  
**COUNCIL OF EUROPE CONVENTION AGAINST TRAFFICKING IN HUMAN ORGANS**  
**1st meeting of the Committee of the Parties**  
(Strasbourg, 31 January 2022)  
Meeting report (revised)

**I. Opening of the meeting**

1. The first meeting of the Committee of the Parties (hereafter, CoP) to the Council of Europe Convention against Trafficking in Human Organs<sup>1</sup> (hereinafter, the Santiago de Compostela Convention or the Convention) was opened by Mr Jan Kleijssen, Director, Information Society - Action against Crime, Directorate General Human Rights and Rule of Law. After welcoming all participants, he noted that this was the first meeting of the CoP following the entry into force of the Convention after being ratified by its tenth signatory (Switzerland), as provided for in Article 23 of the aforementioned Convention. Mr Kleijssen welcomed Ms Marija Pejčinović Burić, the Secretary General of the Council of Europe's, and invited her to take the floor.

**II. Opening remarks by the Council of Europe's Secretary General**

2. The Secretary General Ms Burić started by remarking on the macabre and terrible nature of trafficking in human organs. She then observed that the phenomenon has only been aggravated by the Covid-19 pandemic and that the criminal networks engaging in such activities span continents as well as national borders. Furthermore, she added that the impact of these crimes reaches well beyond public health, posing grave risks to both the people in question and human rights.
3. Ms Pejčinović Burić underlined the Council of Europe's solid track record in this area. She highlighted that, in 2009, the Council of Europe (hereafter, CoE) and the United Nations jointly published a [study on trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs](#), the conclusions of which showed the importance of clarifying the issue, setting an international definition of the phenomena, and prohibiting direct financial gains from the sale of human organs.
4. The Secretary General continued by noting that the Santiago de Compostela Convention, which opened for signature in 2015, is the first and only international criminal law instrument in this area. It not only supports states Parties in the prevention of such crimes, but it also guides them in pursuing the perpetrators, while protecting the rights of the victims and promoting co-operation at both the national and international level.
5. Ms Pejčinović Burić expressed her belief that the Convention has become a point of reference beyond European borders. In this regard she stressed that, among the 12 Parties, Costa Rica has ratified the Convention and that Chile has received the green light from the Committee of Ministers to accede.

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<sup>1</sup> *Council of Europe Convention against Trafficking in Human Organs* (CETS No. 216), Santiago de Compostela 25/03/2015.

6. She also stressed the role of the CoP in monitoring the implementation of the Convention, as well as collecting, analysing, and exchanging information, experiences, and good practices. She ended her remarks by congratulating the CoP on this first step and wishing it a successful first meeting.

### **III. Opening remarks by the Director, Information Society - Action against Crime, Directorate General Human Rights and Rule of Law**

7. Mr Kleijssen emphasised that organ trafficking poses a risk to the individual, as well as to public health, and that it represents an affront to human rights and dignity. He continued by clarifying that the aim of the meeting was the exchange of views, concerns, and approaches, as well as the discussion of the working methods and priorities of the CoP. He also noted the CoE's extensive experience with CoPs, giving as examples the MEDICRIME, Cybercrime and Data Protection's CoPs, and noting that this will be useful and beneficial in deciding how best to turn this new CoP into a real engine.
8. He explained the state of play of signatures and ratifications of the Convention by saying that the Santiago de Compostela Convention has been ratified by 12 Parties (11 CoE member states plus Costa Rica) and signed by 14 CoE member states. He further remarked that, on 21 December 2021, Chile was also invited to sign the Convention.
9. Finally, Mr Kleijssen concluded by introducing Mr Carlo Chiaromonte, Head of Criminal Law and Counter-Terrorism, and Mr Oscar Alarcón-Jiménez, Executive Secretary of the CoP of the Santiago de Compostela Convention, within the Criminal Law Division.

### **IV. Information by the Secretariat**

10. Mr Alarcón-Jiménez provided some practical information on the meeting. He stressed the importance of sharing the views and approaches of the different Parties and to determine what kind of CoP states would like to have. He invited the representatives to engage in a 'tour de table'. Mr Alarcón-Jiménez also noted that, out of 12 Parties, 11 were present at the meeting, as well as other CoE entities such as the Steering Committee for Human Rights in the fields of Biomedicine and Health (hereafter, CDBIO), the Group of Experts on Action against Trafficking in Human Beings (hereafter, GRETA), the Committee on Organ Transplantation (hereafter, the CD-P-TO) and the Parliamentary Assembly of the Council of Europe (hereafter, the PACE).

### **V. Tour de Table**

#### **Croatia<sup>2</sup>**

11. The Republic of Croatia welcomed the organisation of the first meeting of the Committee of the Parties to the Council of Europe Convention against Trafficking in Human Organs, which was ratified by Croatia in 2019. Croatia appointed the Office for Human Rights and Rights of National Minorities as a national contact point for the exchange of the information concerning the trafficking of human organs.
12. The Criminal investigation department from Croatia has not yet submitted any criminal charge concerning reasonable doubt for criminal act in the field of trafficking parts of human body and human embryos, as defined by Croatian Criminal Law, although all possible

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<sup>2</sup> The Croatian representative was present in the meeting but because of IT problems the representative could not take the floor. This information was provided in writing by the representative after the meeting.

information on these issues is immediately checked and with priority, as it is the case with criminal activities on trafficking people.

13. Croatia also highlights the importance of trainings, a multisectoral approach and the exchange of information among state Parties of the Convention (CETS No 216) and with the relevant bodies of the Council of Europe.

#### **Czech Republic:**

14. Mr Válek suggested leaving the substantial debate until the next CoP. In the meantime, he underlined the importance of the Convention in general as well as the importance his country attaches to it, as demonstrated by the fact that the Czech Republic became one of the first Parties to ratify the Convention on 21 September 2017.
15. He explained that Czech criminal law is up to date and thus does not require amendments. He went on to emphasise that, according to the World Health Organization, between 5 and 10% of kidney transplants performed worldwide involve illicitly acquired organs, thus making the business at hand extremely important. Mr Válek stressed that, at the present moment, trafficking in human organs is uncommon in the Czech Republic. He presented data collected by the Czech Ministry of Justice which showed that, over the past three years, no cases of organ trafficking were brought before the national courts.
16. In relation to Art. 25, the representative expressed his support for what was said by the Secretariat, namely, that the CoP should look at the practice of other, already established, committees. Mr Válek also mentioned the need to consider inviting the representatives of other bodies, as provided for under Art. 24. Finally, he stressed the need to support and disseminate the Santiago de Compostela Convention in order to attract more states and thus make it more efficient.

#### **Latvia:**

17. Mr Kārkliņš expressed his belief that the CoP meetings should take into account the best practices of other CoPs, while also being rational and bringing valuable information to the participants. It was also stressed that the Rules of Procedure should provide for the use of technology and the organisation of remote meetings.
18. Latvia went on to emphasise its serious commitment to the Convention. Although cases of trafficking in human organs are rare in Latvia, the Latvian Ministry of Justice felt that the subject was nevertheless important. Latvia was thus among those countries who joined the Convention at the very beginning. During the process of ratification, the Latvian legislation was changed substantively, particularly the Criminal Code. Mr Kārkliņš finished by saying that his country also used this opportunity to organise public information campaigns on the substance and aims of the Santiago de Compostela Convention.

#### **Costa Rica:**

19. Ms Borbón Beeche started her presentation by introducing the other members of the Costa Rican delegation, namely, Ms Flores Arias and Mr Vinoucour Fornieri. It was underlined that Costa Rica was the first non-European country to ratify the Santiago de Compostela Convention in 2021. Ms Bourbon also stressed the importance of international co-operation and, in particular, the good relationship between Spain and Costa Rica in matters of penal co-operation, acknowledging Spain as a world leader in the transplantation of organs.

20. She then reaffirmed the country's commitment to fighting this type of crime. Finally, she explained that Costa Rica guarantees the rights of victims, including their right to access pertinent information.

**Montenegro:**

21. Ms Berisaj reaffirmed the great importance Montenegro attaches to the Convention, which it ratified in 2019, and its commitment to supporting the work of the CoP.
22. In relation to the procedural questions regarding Art. 25, Montenegro echoed the comments made by the Czech Republic, asking the Parties to consider the best practices of other similar bodies in order to achieve efficiency and the best possible implementation of the Convention.

**Norway:**

23. Ms Lang stressed the importance that the Norwegian government gives to the Convention, reminding the other Parties that Norway was among the first countries to sign it back in March 2015 and then ratify it in 2017.
24. She explained that the most serious crimes related to organ trafficking are prosecuted according to Criminal Code, while most pecuniary offences are provided for in a separate code on transplantation of organs. She assured the Parties that all necessary legislative adjustments were made before the ratification.
25. In terms of the working methods of the CoP, Ms Lang acknowledged that there are a lot of best practices that can be built upon. In this regard, she expressed Norway's trust in the Secretariat as well as its willingness to comment on proposed draft Rules of procedure this year.

**Portugal:**

26. Ms Saraiva started by reaffirming the great importance afforded to the Convention. In regard to the working practices of the CoP, she echoed Norway. She then expressed Portugal's trust in the Secretariat to present a draft proposal of terms of reference that the Parties could comment upon.
27. Concerning the national implementation of the Convention, Ms Saraiva mentioned updates to both the Criminal Code and the Criminal Procedure Code. Portugal has introduced a specific crime of organ trafficking and designated the victims of such crimes as special protected persons in criminal proceedings. Moreover, the Ethical Code of the Medical Bar Association has been amended.
28. She then concluded by recalling the need of capacity-building activities for both health and mainly legal professionals to help identify specific concerns.

**Republic of Moldova:**

29. Ms Cujbă stressed the importance of the subject as well as Moldova's commitment to fighting against trafficking in human organs and to contributing in a significant manner to its eradication. She then expressed her conviction that close co-operation between the member and non-member States of the CoE was essential.

30. She also explained that the implementation of the Convention in Moldova did not require any legal amendments. The Criminal Code already provided sanctions in case of organ trafficking and the law already prohibited financial gains from organ transplants. Ms Cujbă also emphasised that the advertising of organs was also criminalised.
31. In terms of implementation, participants were informed that the Ministry for Internal Affairs and the National Agency for Transplantation have put in place a co-operation agreement. Moldova is working to eliminate situations in which citizens can be tempted to become victims while also fighting against “transplantation tourism”. She also emphasised Moldova’s desire to fully engage in international law co-operation.
32. She also requested that the Secretariat prepare the draft Rules of Procedure, taking into account the best practices of other CoPs, and stressed the importance of organising an efficient reporting on the implementation of the Convention. She added that each party could identify their priorities. She then continued by saying that, for Moldova, these would be organising the exchange of information on the procedure of identification of potential victims, the prosecution of THO, as well as working together in disrupting trafficking activities and networks.

**Spain:**

33. Ms Domínguez-Gil informed the meeting that the Spanish legal framework is in line with the Convention. She added that the authorities have also worked with the Spanish Medical College in modifying the ethics code and introducing a trafficking-related exception to the principle of medical confidentiality. Ms Domínguez-Gil noted that Spain is currently engaging in the development of protocols for healthcare professionals which would allow them to identify potential situations of illicit transplants and instruct them on how to proceed. Moreover, she mentioned that periodical training is currently being provided to healthcare professionals, law enforcement agencies, legal professionals, which illustrates the partnership between the different ministries involved (Ministry of Health, Ministry of Justice and Ministry of Interior).
34. With regard to the future of the CoP, Ms Domínguez-Gil stressed the relevance of ensuring full co-operation between the CoP and the transplantation committee. She explained that transplant professionals are very well positioned to identify and combat these practices. In addition, she provided some scenarios in which healthcare professionals could easily report suspected cases of organ trafficking, such as: a patient expressing their intention to engage in illicit transplant activities; peers or other stakeholders facilitating such activities; live donors being evaluated prior to illicit transplants; patients who have received illicit transplants abroad and are now undergoing follow-up care in their country of residence.
35. At the Council of Europe Level, Ms Domínguez-Gil noted that the European Committee on Organ Transplantation (CD-P-TO) has established a network of national health focal points, which collects data on patients who travelled outside the country for transplants (between 2015 and 2019, 500 patients from 34 European countries were identified; in 20% of these cases there were suspicions of trafficking). Ms Domínguez-Gil noted that the network also provides information on the profile of donors, recipients, and locations where organ trafficking activities could take place. The chair of this network should be part of the CoP to ensure appropriate cooperation between both bodies.

36. Finally, she mentioned that other networks (Ibero-American Network-Council of Donation and Transplantation) could also participate in the CoP and provide valuable information.

#### **Switzerland:**

37. Ms Ryf noted that Switzerland both actively participated in the drafting process of the Convention and always supported the international commitment to combat organ trafficking. She mentioned that the national legislation was modified according to the Convention. Among the amendments, extraterritorial jurisdiction was introduced in the Swiss Transplantation Act, and the transplantation of organs, tissues or cells removed without consent were defined as criminal offences.
38. The difficulty of criminalising the removal of organs for purposes other than implantation, as demanded by Art. 5 of the Convention, was also mentioned. Ms. Ryf explained that Switzerland decided to enact changes only at the federal level, amending the Human Research Act and the Therapeutic Products Act.
39. As required by Art. 22 of the Convention, the Federal Office of Public Health and the Ministry of Health was designated as the national contact point. Participants were informed that, so far, there have not been any cases of organ trafficking in Switzerland.

## **VI. Comments by Council of Europe Bodies and Entities**

#### **Parliamentary Assembly of the Council of Europe:**

40. Mr Grin emphasised the abhorrent nature of organ trafficking crimes and underlined the solidarity of his country, Switzerland, in the fight against such activities. He also expressed his belief that fighting against this phenomenon requires international solidarity. He also mentioned that he had been in contact with the Swiss Falun Gong Association who are also concerned by the issue at hand.

#### **Steering Committee for Human Rights in the fields of Biomedicine and Health:**

41. Ms Lwoff explained that from 1 January 2012, the Committee on Bioethics became the Steering Committee for Human Rights in the fields of Biomedicine and Health (CDBIO) and took over the responsibilities that had pertained to DH-BIO, including the responsibility to monitor the implementation of the Convention on Human Rights and Biomedicine<sup>3</sup>. Ms Lwoff highlighted two main principles of the Convention on Human Rights and Biomedicine: the principle of informed consent and the principle that the human body should not be used for financial gain. She underlined the readiness of the CDBIO to co-operate in the application of the Santiago de Compostela Convention.
42. Moreover, some information was also provided: the “Guide for the implementation of the principle of prohibition of financial gain with respect to the human body and its parts from living or deceased donors” is currently available in four non-official languages as well as in French and English.

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<sup>3</sup> Council of Europe, Convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No. 164), Oviedo, 04/04/1997.

### **Committee on Organ Transplantation:**

43. Ms López-Fraga stressed the need to involve professionals in combating organ trafficking as well as the opportunities these professionals have to address such crimes. She explained that, despite this, medical professionals are uncertain about how to approach potential trafficking situations. To illustrate this point, she mentioned a 2015 study by the Ethics Committee of the Transplant Society which surveyed 900 healthcare professionals. It would seem that out of these 900 professionals, 31% expressed doubts about what to do when faced with patients considering travelling abroad, patients who came to the country to donate an organ, and other such situations.
44. Against this background, some legal instruments which might contribute to address illicit transplantation practices were mentioned. First, she mentioned Resolution CM/Res(2013)55<sup>4</sup>, which calls for the establishment of procedures for the collection and dissemination of data on transplantation activities outside a domestic transplantation system, which includes the designation of a contact person in charge of data collection on illicit transplantation activities at national level and the communication of the results to the Secretariat of the CD-P-TO. Secondly, she pointed to CM/Res(2017)2<sup>5</sup> which establishes a procedure for managing patients who have received an organ transplant abroad and calls for the regular reporting of anonymised activity data on patients having received an organ transplant abroad to the Secretariat of the CD-P-TO with a view to analysing and discussing such results within the CD-P-TO (or a designated working group) and informing member States.
45. In the context of these legal instruments, the EDQM has a network of national focal points from 34 countries which has collected information so far about almost 500 patients who have travelled abroad for organ transplantation from which 98 patients received an organ transplantation in circumstances that may indicate an illicit procedure, 64 of which underwent the procedure in a CoE member state. She concluded that there is thus a need to foster a close co-operation between the health sector and the criminal law field, particularly within the Committee of the Parties. It would also be essential to ensure a tight cooperation between this Committee and the EDQM network of national focal points, with a view to benefit from the knowledge and expertise acquired by the later and to avoid duplication of efforts.

### **GRETA:**

46. Ms Nestorova started by noting that the CoE Convention on Action against Trafficking in Human Beings<sup>6</sup> has 48 states Parties, including two non-CoE member states, Belarus and Israel. She then explained that the monitoring of this Convention falls to a group of experts known as GRETA and that, while they do have a CoP as well, this is a more political structure which uses the expert findings of GRETA to base its recommendations upon.
47. Ms Nestorova explained that during their 2<sup>nd</sup> evaluation round of the above-mentioned Convention, particular attention was paid to the steps Parties take to prevent human

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<sup>4</sup> Resolution CM/Res(2013)55, on establishing procedures for the collection and dissemination of data on transplantation activities outside a domestic transplantation system.

<sup>5</sup> Resolution CM/Res(2017)2 on establishing procedures for the management of patients having received an organ transplant abroad upon return to their home country to receive follow-up care

<sup>6</sup> Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197), Warsaw 16/05/2005.

trafficking for the purpose of organ removal. While she recognised that a distinction should be made between the two crimes, i.e. trafficking for the purpose of organ removal and trafficking in human organs, she highlighted the similarities and common root causes of these two crimes, in particular the shortage of organs available for transplant, poor economic and other conditions putting persons in vulnerable situations. She also stressed the need for prevention methods such as a robust and transparent system for the removal and transportation of human organs, as well as the proper training of professionals.

48. Ms Nestorova went on to explain that, in most states Parties, healthcare professionals do not have an obligation to inform the authorities when they suspect an illegal organ transplant took place abroad. According to her, GRETA has case studies on different countries which have had situations of trafficking for the purpose of organ removal. She could thus provide data on the extent to which the situations were investigated and the end results of such investigations. Ms Nestorova ended by reaffirming the links between the two conventions and encouraging Parties to stay in touch and organise an exchange of information in due course.

## **VII. Closing Remarks**

49. Mr Kleijssen stated that the Secretariat will draft the minutes of the meeting and the preliminary Rules of Procedure (RoP) of the CoP, which will be sent to the Parties in both French and English before the forthcoming meeting scheduled to take place after the summer period.
50. He further added that the experiences of other CoE monitoring bodies as well as the work done so far will be considered when drafting the RoP. These would count three major pillars: the monitoring of the implementation of the Convention; the exchange of information, experiences, and good practice; the passing of future amendments of the Santiago de Compostela Convention.
51. Mr Alarcón-Jiménez mentioned that the next step would be to ask the Parties to appoint representatives to the CoP, i.e. a delegate who would participate in the CoP meetings; this representative may also be accompanied by any other representative as part of the country's delegation. He welcomed all participants for their participation and informed that the presentations received will be distributed among the Parties.