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	SPAIN

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**:
- **State bodies/agencies (where relevant, civil society and external contributors) that contributed to responding to this questionnaire:**

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 cooperation.

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".[1]

[1] 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.

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 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 onsite 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 awarenessraising 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.

Preventive Measures - 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[2]:

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

The first time that the Spanish legislation addressed crimes that could be part of THO/HTOR scenarios was through the Organic Law 10/1995 that reformed the Spanish Penal Code. This law included punishments for anyone who caused the lost or uselessness of an organ (i.e. such lesions to a third party, which occur in instances in which organs are removed from a victim). Art 150 of the Title III Damages states:

- Those who cause the lost or uselessness of an organ or non-principal member, or its deformity, will be punished with imprisonment of 3 to 6 years. https://www.boe.es/buscar/doc.php?id=BOE-A-1995-25444

The Organic Law 5/2010 that reformed the previous Organic Law of 1995, of the Spanish Penal Code included an article dedicated exclusively to THO, in accordance with the World Health Organization Guiding Principles on Human Cell, Tissue and Organ Transplantation. Article 156 bis: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2010-9953

- Those who promote, facilitate or publicise the illicit procurement of organs or the THO or their transplantation will be punished with imprisonment of 6 to 12 years in the case of a vital organ or 3 to 6 years in the case of a non-vital organ.
- The recipient consenting to receiving an organ transplant being aware of the illicit origin of the organ will be punished with the same penalties established as provided in the previous paragraph, which may be lowered by one or two degrees, attending to the circumstances of the case and those of the offender.
- When according to what established in article 31 bis a juridical person is responsible for the crimes covered by this article, a financial sanction consisting of three to five times the benefit obtained will be imposed.

[2] "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.

The 2015 reform of the Penal Code with regards to the HTOR was through Organic Law 1/2015. Article 177 bis states:

- Those who in the Spanish territory (…), recruit, transport, transfer, harbour or receipt persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person with any of the following purposes: i. the imposition of forced labour or services, including slavery or practices similar to slavery, servitude or begging; ii. sexual exploitation including pornography ; iii. the exploitation to commit criminal activities; iv. the removal of organs; v. the celebration of forced marriages, will be punished with imprisonment of 5 to 8 years for a crime of trafficking in human persons. https://www.boe.es/buscar/pdf/2015/BOE-A-2015-3439-consolidado.pdf

The Royal Decree 1723/2012 of the 28th of December, it is the Spanish principal legislative instrument that regulates the obtaining, clinical utilisation and territorial coordination of human organs intended for transplantation and establishes the quality and safety requisites for these procedures. This rule includes in its articles the protection of donors and recipients and the requisites to carry out these procedures; all of them are measures to prevent and control the inacceptable practices against people dignity and right to life, as follows:

- The respect and protection of the donor and recipient is in Chapter II, including the gratuity of the donations.
- Chapters III and V contain the requisites for deceased and living donors as well as the compulsory general and specific authorisations for centres to the obtaining and transplantation of organs from deceased and living donors. Living donation should be only practiced under the following requisites: i. only in specifically authorised centres; ii. free, informed, specific consent; iii. no minors or incompetents; iv. filters: independent medical, social and psychological assessment, Ethics Committee and Judge.
- Chapter VI is on quality and safety of organs: organs and donors characterisation, organs traceability and health-care professionals training.
- Chapter VII establishes that the Spanish Transplant Organization (ONT) and the Autonomous Communities are the competent authorities for the coordination of the activities related to the obtaining and transplantation of organs. These authorities are represented in the National Transplant Committee which it is the collegiate body where the agreements on donation and transplantation acting lines are taken.
- Chapter VIII is on information systems. The ONT is the authority responsible of the development and maintaining of the registry of centres of organ procurement and transplantation, as well as of the information systems on donors (deceased and living), on characteristics and follow up of transplanted patients and on organs and their traceability.
- Chapter IX includes the inspection and supervision of the activity and the cautionary measures, infractions and sanctions. The breach of the principles of voluntary, altruism and gratuity of the donation and the default of the requisites established for the living donation are gathered as very serious infractions. https://www.boe.es/buscar/doc.php?id=BOE-A-2012-15715

The Council of Europe, in co-operation with the Spanish authorities, organised a high-level International Conference on the fight against THO, which took place on 25 - 26 March 2015 in

Santiago de Compostela, Spain. During this conference, and following the decision of the Committee of Ministers, the Council of Europe Convention against Trafficking in Human Organs was opened for signature on 25 March 2015. Member States of the Council of Europe and States outside Europe were invited to sign the Convention on this occasion. Fourteen countries signed this Convention in Santiago, Spain amongst them, and ten more countries did it from then. The Convention entered into force on 1st of March 2018. It calls on governments to establish as a criminal offence the illegal removal of human organs from living or deceased donors: i. where the removal 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 its domestic law; ii. where, in exchange for the removal of organs, the living donor, or a third party, receives a financial gain or comparable advantage and; iii. where, in exchange for the removal of organs from a deceased donor, a third party receives a financial gain or comparable advantage. The Convention also provides protection measures and compensation for victims as well as prevention measures to ensure transparency and equitable access to transplantation services.

http://www.coe.int/t/dghl/standardsetting/cdpc/conference/Santiago_de_Compostela_en.asp

In 2019 the Spanish Penal Code was reformed to align it with the disposals of the Convention for its ratification.

Article 127A bis part was included in Article 127.1 Article 156 was modified and states:

1. Those who promote, facilitate, advertise or execute the human organ trafficking will be punished with prison from six to twelve years when the organ is from a living donor and prison from three to six years when the organ is from a deceased donor. The trafficking of organs is:

a) The illicit removal or obtaining of human organs. That removal or obtaining will be illicit if any of these circumstances occurs:

1.ª when it is developed without the free, informed and express consent of the living donor in the way and under the expected legal requisites; 2.ª when it is developed without the necessary authorization requested by law in the case of the deceased donor; 3.ª when, in exchange for the removal or obtaining, for own or someone else's benefit, the donor or a third person requests or receives reward or recompense of any type, or accepts an offer or promise. It is not understand as reward or recompense the compensation of the expenses or lost of incomes due to the donation procedure.

b) Preparation, preservation, storage, transport, translation, reception, import or export of organs illicitly removed.

c) The use of organs illicitly removed with the aim of their transplant or other aims.

2. In a similar way, will be punished those who for their own or someone else's benefit:

a) apply or receive, by themselves or by a third, a reward or recompense or accept an offer or a promise rewarding the capture of a donor or of an organ recipient;

b) offer or give, by themselves or by a third, reward or compensation from any faculty, public work or particular for the development of his profession or his work in clinics, establishments or public or private doctor's office, with the aim of carry out or facilitate the illicit removal or obtaining of organs illicitly removed.

3. If the receptor of the organ allows the development of the transplant knowing its illicit origin, it will be punished with the same sentences expected in section 1, that could be decreased in one or two grades attending the circumstances of the incidence and of the guilty.

A National Protocol for living donors in non-resident donor recipient pairs was approved in December 2014 by the Spanish Transplant Commission, composed of one person from every Autonomous Community and with the Presidency of the ONT. This text specifies an exhaustive list of requisites for this procedure: i. the referring centre has to carry out a complete evaluation of donor and recipient, ii. all the information related to donor-recipient has to be presented before travelling; iii. the recipient must present unequivocal proofs of relationship with the donor; iv. donor and recipient should have on their own at least a three months validity visa; v. every case has to be studied in Spain; vi. the consent and approval process are requested as in a routinely performed in Spain; vii. there must exist a guarantee for living donor follow-up at the country of origin; viii. the cost should be assumed by the donor and recipient country/ies of origin. The centre also has to accomplish some requisites to perform a living transplant procedure in non-resident donor-recipient pairs, which are: i. express authorisation for the activity; ii. count on a local protocol on non-resident living donation and iii. communicate the case to the ONT and the regional authorities in advance to perform any study. The principal aims of this Protocol is ensuring that the donors not receiving financial inducement or is being coerced and the procedure is performed in the most adequate conditions for donor and recipient.

On the other hand, following the commitment made after the third Plenary Committee, that National Board for the fight and prevention of organ trafficking would be formed in Spain, the first meeting of this National Board was held at the headquarters of the Ministry of Justice on 27 November 2023 with the aim of drawing up an action protocol to coordinate the actions of the Hospitals and doctors, with the State Security Forces and Corps, and the Administration of Justice, in the event that a suspected case of organ trafficking was detected. The title of the Protocol was agreed to be: ‘Protocol of action to prevent and combat transplant tourism, organ trafficking and trafficking in persons for the purpose of organ removal for transplantation’.

In addition, the table is constructed as a focal point where representatives from the various institutions involved in the prevention and fight against human trafficking come together to share the activities that are being carried out in this area and the challenges they encounter in their work.

Subsequently, meetings were held in July and October 2024, and in May 2025, anticipating to have the Protocol completed in the second half of this year.

The table is composed of representatives from the National Transplant Organisation, the General Council of the Judiciary, the Attorney General's Office, the State Security Forces and Corps (Policía Nacional and Guardia Civil), the Transplant Coordinators, the Collegiate Medical Organization, and forensic doctors.

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 Law 30/1979 developed in the Royal Decree 1723/2012 stablishes the following as a system of audit:

- Principles that regulate the donation and transplantation procedures.
- Requirements for the authorization of centers to obtain organs/cells and for removal and transplant.
- Requirements for the authorization of every procedure.
- Filters for the living donation:
- Living donor 1) > 18 years old, 2) be informed about the consequences of the donation, the possible operation risks, the consequences in the psychological aspect, the potential repercussions in his personal, family and professional life, as well as the benefits for the recipient of the transplant and the available therapeutic alternatives for this patient.
- For the removal of organs the living donor has to pass three evaluations/filters:
  - independent medical and psychosocial evaluation, by a doctor who is not going to participate in the removal or transplantation procedures: Certification of the complete mental abilities and an adequate health state of the living donor.
  - by the Ethical Committee of the hospital where the organ will be removed: Mandatory report.
  - by a Judge: Consent. Previously received a certificate including the list of all the professionals who will participate in the procedure.

Moreover, the Spanish Model of Organ Donation includes an audit system of the Quality of the donation and transplantation process with indigent auditors, who who oversee that the donation and transplantation process is carried out in accordance with the law and with the highest possible quality, including traceability.

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

Yes. Audits are organized by the National Competent Authority (Spanish Organización Nacional de Trasplantes – ONT) but auditors are independent to the hospitals where audits are developed.

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?

The audits are intended to detect any action taken that does not follow the law, including any live donation process that has not complied with Spanish law.

d. The audits are intended to detect any action taken that does not follow the law, including any live donation process that has not complied with Spanish law.

Yes. Audits are organized by the National Competent Authority (Spanish Organización Nacional de Trasplantes – ONT) but auditors are independent to the hospitals where audits are developed.

e. Please state the frequency of such audits

f. Are the audits mandatory or voluntary?

The audits are voluntary, but the ONT encourages the regional transplant coordinators to carry them out in order to improve the donation and transplantation processes in hospitals. Around 8-10 audits are carried out each year

---

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?

The Royal Decree 1723/2012 of the 28th of December, it is the Spanish principal legislative instrument that regulates the obtaining, clinical utilisation and territorial coordination of human organs intended for transplantation. This rule includes the collection of data of the donation and transplantation procedures carried out in Spain or in the framework of the International Kidney exchange programme with donor and /or Spanish recipients – traceability system.

On the other hand, the Human Trafficking Unit of the Attorney General's Office (formerly the Prosecutor's Office of the Immigration Chamber of the FGE), has been responsible for the coordination and monitoring of criminal cases for the crime of trafficking in human beings (THB) for any of its purposes, including the removal of organs, since article 177 bis was introduced into the Spanish Criminal Code, by virtue of LO 2/2010 of 22 June. Likewise, their task extends to the collection of data, unification of criteria, preparation of jurisprudential summaries, and criminological analysis of the crime of trafficking in human beings in all its modalities. FGE Instruction No. 1/2015 of 13 July, and previously, Attorney General's Office Instruction No. 5/2007 of 18 July, specify such powers.

The Spanish Attorney General's Office opted, in the aforementioned Instructions, for specialization in certain matters of particular complexity and relevance, such as THB, because it constitutes one of the most serious attacks on the dignity of the person, and because of its relationship with transnational organized crime, as regulated by the Convention and the Palermo Protocol of 2000, the Warsaw Convention of 2005 and EU Directives 36/2011 and 1712/24.

This objective has been achieved with the creation of specialized Prosecutors' Offices, including our Unit on Trafficking in Persons and Aliens, composed of the Coordinating Chamber Prosecutor and two Attached Prosecutors, with national jurisdiction. In addition, there

are specialist Delegated Prosecutors in all provincial and area Prosecutors' Offices throughout the national territory, who have the technical-legal, theoretical and practical knowledge, and the necessary sensitivity to deal with the criminal matters of the specialty. The training is achieved by systematically including the subject of THB in the training plans of the FGE, through initial and continuing training courses for prosecutors, as well as through the organization of annual conferences for specialist prosecutors, among other training activities. The Unit has a fundamental role in the design and implementation of all these training actions for prosecutors.

From the Central Unit, they carry out real-time monitoring of all investigations and criminal proceedings related to the crime of HRT in all its modalities, including organ removal. Through this monitoring, they collect the data provided by the reports of the State Security Forces and Autonomous Police, and those provided by our provincial specialist delegated prosecutors, who are the ones who have operational functions in criminal proceedings. They collect data, by province, on victims and "judicialized" suspects, i.e., those who are the subject of criminal proceedings, dissociated by sex, nationality, age, type of trafficking, form of recruitment, means of commission, final crimes associated with trafficking and other related crimes, among other parameters.

They also compile annually all the indictments formulated by the prosecutors and all the judgments that are handed down in matters of TSH by the Spanish Courts, in first and second instance, and by the Supreme Court in the resolution of cassation appeals. They analysed the data of victims recognised in sentence, and people convicted and acquitted for and final offences, also dissociated by sex, nationality, age and type of trafficking, among other categories.

Since 2024 they have had a computer application, which continues to be implemented and improved, so that we can export the data collected, and use it in our annual reports, which are basically two, the report for the Annual Report of the FGE, and the report of Follow-up Proceedings that they also prepare annually, with a detailed diagnostic and criminological analysis of the evolution of the phenomenon of HRT in Spain.

Therefore, in the Trafficking Unit of the FGE we are in a position to provide reliable data on victims of THB prosecuted, people investigated, criminal proceedings and sentences related to this crime. Every year, they are asked for this data by multiple national and international institutions with which we share it (US Embassy, EUROSTAT, GRETA, OSCE, Government Delegation for Gender Violence, CITCO, National Rapporteur's Office, etc.).

Trafficking for the purpose of organ extraction is one of the modalities provided for in article 177 bis of the Criminal Code, and, as such, the data on this type of trafficking, in the event of investigations or criminal cases opened in a court for this crime, will be collected in the records of our Unit. In addition, the connection with the crime provided for in article 156 bis of the Criminal Code, as with other crimes constituting the purpose of exploitation, places us in an optimal situation to collect data in relation to the crime of trafficking in human organs.

Guardia Civil is actively working to prevent cases of human trafficking for the purpose of organ extraction, although to date, none have been detected in Spain.

Within the framework of the Judicial Police's work, in relation to the aforementioned types of crimes, relations and coordination between the various national and international agencies are fostered regarding the flow and exchange of strategic and operational information that allows for the improvement of the Guardia Civil's operational procedures.

Thus, at the national level, contacts are maintained with the National Transplant Organization for technical advice and the exchange of case studies in the field of human trafficking for the purpose of organ extraction (Article 177 bis) and, above all, with regard to conduct related to the typology of promoting, publicizing, and facilitating the trafficking of human organs in Article 156 bis of the Criminal Code.

Regular meetings are also held with the Special Rapporteur's Office and the National Committee on Organ Trafficking to keep projects and protocols related to this matter up-to-date.

Furthermore, Guardia Civil addresses this topic during its Human Trafficking investigators' trainings, equipping its students with a range of knowledge for investigating these crimes.

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?

Spain participates in the Council of Europe exercise of data collection on data reating to offences covered by this Convention since 2018 (2016 activity data)

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

The Spanish Organización Nacional de Trasplantes - ONT

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

For the Spanish reports: The Spanish Organización Nacional de Trasplantes – ONT. For the council of Europe contries report: EDQM

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

Yes. Abstracts on the collected data and conclusions are shared but not concreted data of each country.

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

In the CoE exercise, the authorities involved are the national competent authorities in the collection of this data. All of them are the competent authorities on organ donation and transplantation procedures that belongs to Health Ministries.

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

There are countries that do not report even if they were called to do it. It is a voluntary exercise. Anyway, the reason is not legal because data anonymity is guaranteed.

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.

Yes, explained above. Exchange of this information in the Network of National Focal Points on Travel for Transplantation (NETTA) of the Council of Europe. Yes, there is a focal point from Spain, working for the ONT.

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)?

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

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

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

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

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

Every year, the ONT subsidizes training courses for health professionals, public prosecutor's Office professionals and journalists so that they know how to detect and act in possible cases of organ trafficking, transplant tourism and human trade for the purpose of organ removal for transplantation.

Moreover, ONT participates in the Human Trafficking Researchers Training Annual Programme of the Civil Guard as well as in the Training at the General Council of the Judiciary. National Police, in addition to attending regular meetings with members of ONT, specialist doctors and other police departments regarding trafficking in human organs, is coordinating the different units involved in this specific type of investigations (Human Trafficking and Crimes against people) with the aim of improving actions in the event of possible cases of human organs trafficking.

In addition, the Prosecutors of the Unit participate in numerous courses and training activities on trafficking in human beings, including for the purpose of organ removal and other related crimes aimed at members of the Security Forces, Judges, Lawyers, Labor Inspectors, University Community, and Civil Society Entities, among other public and private institutions. We also collaborate in international training projects led by various international cooperation organizations (e.g. FIAP, PACCTO)

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?

The Spanish donation and transplantation system is legally protected against these crimes, just as the different actors involved act in accordance with the law and ethical principles.

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.

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.

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.

The ONT frequently launches messages on its social networks and in speeches or press releases issued for the celebration of key days in this field (National Donor or Transplant Day, etc.) to raise public awareness of the illegality of buying and selling organs for transplantation, transplant tourism, etc. In addition, all the messages issued by the organisation emphasise the gratitude of donation and the non-profit nature of the act, on the contrary, the generosity of the donor and his or her family.

Specifically, the ONT's account on the social network X (@ONT_es), which has 13,000 followers, should be highlighted. In this report, among other issues, the promotion of living donations is encouraged, the important work carried out by the ONT in transplant coordination is resalted, and legislation on donation is made accessible to the public. The ONT also has a channel on the social network YouTube (@ont_esp) which has more than 100 videos published.

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.

A few years ago, the ONT collaborated with a Spanish university to carry out a survey to find out the Spanish population's opinion on donation, including awareness of the messages of altruism and generosity of donation versus transplant tourism and human organs trade. A similar study will be conducted in the coming months.