

T-THO (2023) CPQ

GENERAL OVERVIEW QUESTIONNAIRE

COUNTRY PROFILE QUESTIONNAIRE

COUNCIL OF EUROPE CONVENTION AGAINST TRAFFICKING IN HUMAN ORGANS

**As adopted by the Santiago de Compostela Committee
in Plenary meeting
on 25-26 October 2023**

Replies should be addressed to the Committee Secretariat
by **3rd May 2024**
(organtrafficking@coe.int)

Document prepared by the Committee of the Parties' Secretariat
Directorate General I – Human Rights and Rule of Law

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I. INTRODUCTION

1. The Council of Europe Convention against Trafficking in Human Organs¹ (hereinafter “the Santiago de Compostela Convention” or “the Convention”), which entered into force in March 2018, requires criminalisation of illicit removal of human organs, the use of illicitly removed organs for purposes of implantation or other purposes than implantation, illicit solicitation, recruitment, offering and requesting of undue advantages and preparation, preservation, storage, transportation, transfer, receipt, import and export of illicitly removed human organs. The Convention provides a framework for national and international co-operation across the different sectors of the public administration, measures for coordination at national level, preventive measures at domestic and international level and protection of victims and witnesses. Furthermore, it foresees the establishment of a monitoring body to oversee the implementation of the Convention by the States Parties.
2. The Committee of the Parties to the Convention (also known as the “Santiago de Compostela Committee” or “the Committee of the Parties”), established to monitor whether Parties effectively implement the Convention, decided that:

1. Following ratification and within six months from the entry into force of the Santiago de Compostela Convention in respect of the Party concerned, every Party to the Convention shall be required to reply to a questionnaire aimed at providing the Santiago de Compostela Committee with a general overview of the legislation practice, institutional framework and policies for the implementation of the Convention at the national, regional and local levels. Thereafter, the Parties should regularly inform the Santiago de Compostela Committee of any substantial changes to the situation described in their replies to the General Overview Questionnaire.

2. States having signed the Convention shall be invited to reply to the questionnaire referred to in paragraph 1 of this rule.

3. The secretariat shall compile the replies received and make them public on the Committee’s website².

3. 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 shall be detailed, as comprehensive as possible, answer all questions and contain all relevant

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

² Santiago de Compostela Committee’s Rules of Procedure, Rule 25.

reference texts. The replies shall be made public, unless a Party makes a reasoned request to the Santiago de Compostela Committee to keep a 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(ies) 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 in 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.

4. The purpose of this general questionnaire is to collect information to provide the Committee of the Parties with an overview of the situation, which will constitute the general framework within which it will assess replies by Parties to the thematic questionnaire for the first monitoring round (see Rule 25 of the Committee's Rules of Procedure).

II. PRELIMINARY REMARKS

5. The provisions of the Santiago de Compostela Convention have been grouped under different sections in this questionnaire without necessarily following the structure of the Convention. This methodological choice in no way intends to prioritise the various provisions of the Convention: equal importance is attached to all rights and principles therein.
6. Parties will be invited to update their replies to this Country Profile Questionnaire when they will receive the next thematic monitoring questionnaire. Responses to a thematic questionnaire should therefore be interrelated and combined with the responses provided in the context of this questionnaire.
7. Parties are kindly requested to:
 - answer the questions with regard to central, regional and local levels to the extent possible. Federal states may, in respect of their sovereign entities, answer the questions in a summarised way;

III. GENERAL LEGAL FRAMEWORK AND ALIGNMENT OF THE CONVENTION

Question 1: Non-discrimination

Is discrimination, on grounds such as the ones mentioned in the indicative list in **Article 3**, prohibited in the implementation of the Convention, in particular in the enjoyment of the rights guaranteed by it? If so, please specify.

Discrimination in Albania is prohibited under the Albanian legal framework, in accordance with international standards, including the principles set out in Article 3 of the Convention. The Constitution of Albania and specific anti-discrimination legislation provide a comprehensive basis for ensuring equality and protection against discrimination.

Constitutional Provisions

The Constitution of Albania (1998, as amended) explicitly guarantees equality before the law and prohibits discrimination. Key provisions include: **Article 18 of the Constitution of the Republic of Albania**

- All are equal before the law and entitled to equal protection without discrimination.
- No one may be unfairly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious, or philosophical beliefs, economic, educational, social, or parental status.

Article 16: Fundamental rights and freedoms apply equally to all individuals within Albanian jurisdiction, without distinction based on race, gender, ethnicity, religion, political beliefs, economic status, social background, or other grounds.

Specific Legislation

Albania has adopted comprehensive anti-discrimination laws to align with international conventions, including:

Law No. 10 221, dated 4.2.2010, "On Protection from Discrimination"

Prohibits discrimination on various grounds such as race, ethnicity, gender, religion, language, political beliefs, sexual orientation, disability, age, and others.

Establishes the Commissioner for Protection from Discrimination (CPD) as an independent body to monitor and address cases of discrimination.

Covers both direct and indirect discrimination, harassment, and victimization.

Article 9/a of the Criminal Procedure Code - Rights of the Victim of a Criminal Offense

1. During criminal proceedings, the victim has the rights provided for by this Code.
2. Public bodies must ensure that victims of a criminal offense are treated with respect for their human dignity and protected from retaliation when exercising the rights provided for by this Code.

European Human Rights Standards

As a member of the Council of Europe, Albania is bound by the European Convention on Human Rights (ECHR), which prohibits discrimination and all other rights guaranteed by the Convention.

Labor Code of Albania

Prohibits discrimination in the workplace based on gender, age, religion, disability, ethnicity, and other factors.

Requires employers to ensure equal treatment in recruitment, remuneration, promotion, and working conditions.

Law No. 96/2017, "On Social Housing"

Includes provisions to prevent discrimination in access to housing for marginalized and vulnerable groups.

Alignment with the Convention

Albania has ratified key international instruments, such as the European Convention on Human Rights (ECHR) and the United Nations Convention on the Elimination of All Forms of Racial Discrimination (CERD). These instruments are directly applicable in domestic law under Article 122 of the Constitution, ensuring that discrimination is prohibited in the enjoyment of all rights guaranteed by the Convention.

Implementation and Enforcement

The Commissioner for Protection from Discrimination (CPD) has the mandate to investigate discrimination complaints, issue recommendations, and impose sanctions.

Courts in Albania also play a significant role in interpreting and enforcing anti-discrimination laws.

Practical Challenges

Despite a strong legal framework, challenges remain in its enforcement, public awareness, and access to remedies for victims of discrimination. Ongoing efforts are needed to ensure effective implementation and alignment with the Convention.

Question 2: Overview of the implementation

Please indicate (without entering into details):

- a. the main legislative or other measures to combat against the trafficking in human organs in accordance with the Convention;

Albania has taken significant steps to combat the trafficking of human organs, aligning its domestic legal framework with international conventions.

1. Main Legislative Measures:

Criminal Code of Albania (Law No. 7895, amended):

Article 110/b: Explicitly criminalizes trafficking in human beings for the purpose of organ removal.

Article 114/b: Provides additional sanctions for those involved in trafficking human organs or tissue.

Law no. 10 454, dated 21.7.2011 on transplantation of tissues, cells and organs in the republic of Albania regulates organ donation and transplantation to prevent trafficking.

Requires all organ transplants to be conducted under strict medical and legal oversight.

Article 89/a Illegal selling of organs

Selling of transplants as well as any other activity related to the illegal removal and implantation of organs shall be punished by three to seven years of imprisonment. This offence committed by the person who abuses of his/her position in relation to a child or another vulnerable persons, shall be punished by seven to ten years of imprisonment. This offence, when committed more than once or in collaboration shall be punished by ten to fifteen years of imprisonment. Where the above-mentioned offence causes the death of the victim, or is committed by a structured criminal group or criminal organization, it shall be punished by fifteen to twenty five years of imprisonment

Article 110/a Trafficking in adult persons

The recruitment, transport, transfer, hiding or reception of persons through threat or the use of force or other forms of compulsion, kidnapping, fraud, abuse of office or taking advantage of social, physical or psychological condition or the giving or receipt of payments or benefits in order to get the consent of a person who controls another person, with the purpose of exploitation of prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or forms similar to slavery, putting in use or transplanting organs, as well as other forms of exploitation, both within and beyond the territory of the Republic of Albania, shall be punishable by imprisonment from eight to fifteen years.

Article 128/b Trafficking of Minors

Recruitment, sale, transport, transfer, hiding or reception of minors with the purpose of exploitation for prostitution or other forms of sexual exploitation, forced labor of service, slavery or forms similar to slavery, putting in use or transplanting organs, as well as other forms of exploitation, shall be punishable by ten to twenty years of imprisonment.

Law No. 23/2012, "On Some Amendments and Additions to the Criminal Code":

Strengthens penalties for trafficking-related offenses, including those involving organs.

Institutional Measures: The **National Authority for Organ Transplantation** oversees and regulates organ donation and transplantation activities.

Collaboration with international organizations to improve enforcement and public awareness.

National Action Plan on Combating Human Trafficking 2024-2025

- This national action plan includes measures to address all forms of human trafficking, including trafficking in human organs. The plan focuses on enhancing law enforcement capabilities, improving victim identification and support mechanisms, and strengthening coordination with international partners.

2. Europe

At the European level, the fight against trafficking in human organs is governed by harmonized legal frameworks developed through key treaties and instruments.

Main Legislative Measures:

European Convention for the Protection of Human Rights and Fundamental Freedoms;

Council of Europe Convention “On Action against Trafficking in Human Beings”;

Council of Europe Convention against Trafficking in Human Organs (CETS No. 216):

First international treaty specifically targeting trafficking in human organs.

Criminalizes illegal removal, use, and trafficking of organs.

Emphasizes victim protection and international cooperation.

Directive 2010/53/EU of the European Parliament and Council:

Establishes quality and safety standards for organ transplantation across EU Member States.

Aims to prevent illegal activities and ensure ethical organ donation practices.

Directive 2011/36/EU on combating human trafficking: Includes provisions for combating trafficking for organ removal.

Institutional Measures:

EUROPOL and EUROJUST: Coordinate cross-border efforts to combat organ trafficking within and beyond the EU. Albania works in close cooperation with international bodies like the United Nations Office on Drugs and Crime (UNODC), EUROPOL, and INTERPOL to prevent trafficking in organs.

European Directorate for the Quality of Medicines & Healthcare (EDQM): Oversees ethical standards for organ transplantation.

- b. whether your country has adopted a national strategy and/or Action Plan to combat against the trafficking in human organs. If so, please specify the main fields of action and the body/bodies responsible for its/their implementation;

Yes, Albania has adopted measures to address the trafficking of human organs within the broader framework of combating human trafficking. While there is no specific standalone national strategy exclusively dedicated to trafficking in human organs, the issue is integrated into national strategies and action plans on human trafficking and organized crime.

Decision No. 458, dated 10.7.2024, amending Decision No. 1140, dated 24.12.2020, of the Council of Ministers, “On the Approval of the Strategy Against Organized Crime and Serious Crimes, 2021–2025, and the Action Plan 2024–2025”, amended

Main Areas of Action

Some key areas of focus within Albania's strategic framework include:

Legislative and Policy Development:

- Strengthening and harmonizing laws to criminalize organ trafficking.
- Aligning domestic legislation with international conventions, such as the Council of Europe Convention against Trafficking in Human Organs.

Prevention and Awareness:

- Awareness campaigns to inform citizens about the risks of organ trafficking.
- Educational initiatives targeting vulnerable groups.

Victim Identification and Support:

- Mechanisms for identifying victims of trafficking, including victims of trafficking for organ removal.
- Ensuring medical, legal, and psychological support for victims.

Law Enforcement and Investigation:

- Enhancing the capacity of law enforcement agencies to investigate and prosecute organ trafficking cases.
- Collaboration with international agencies like INTERPOL and EUROPOL for cross-border cases.

Monitoring and Regulation of Organ Transplants:

- Oversight of organ donation and transplantation through strict licensing and monitoring processes.
- Prevention of illegal organ removal and trade.

Several institutions in Albania are tasked with implementing measures to combat trafficking in human organs:

Ministry of Health and Social Protection:

- Develops and oversees policies on organ donation and transplantation.
- Regulates medical institutions involved in transplantation.

National Authority for Organ Transplantation:

- Monitors organ donation and transplantation to ensure compliance with ethical and legal standards.

Ministry of Justice and the Prosecutor's Office:

- Investigates and prosecutes criminal cases related to organ trafficking.

Ministry of the Interior – Anti-Trafficking Sector– State Police:

- Manages law enforcement and prevention activities against trafficking networks.

Ministry of the Interior

- Coordinates national efforts to combat human trafficking, including trafficking for organ removal.
- Manages law enforcement and prevention activities against trafficking networks.
- Based on the Order of the Minister of the Interior no. 18, dated 19.01.2024 "On the assignment of the duties covered by the deputy minister", the Deputy Minister of the Interior is charged with following, monitoring and coordinating the cooperation with the institutions charged with the implementation of measures in the framework of the fight against human trafficking.
- Anti-Trafficking Sector remains the main structure focused on actions and policies against human trafficking, which coordinates and monitors anti-trafficking activities at the national, regional and international level.

Commissioner for Protection from Discrimination:

- Addresses potential discriminatory practices that may arise in the context of organ donation and trafficking.
- c. If there has not been any adoption of a national strategy and/or Action Plan to combat against the trafficking in human organs, whether there is a strategy and /or Action Plan by a particular Ministry or State Agency that leads on this nationally.
- d. Regarding compliance with the content of the Convention, does your country's domestic law comply with the concepts of:
 - "trafficking in human organs" (Article 2)
 - "human organ" (Article 2)
 - "financial gain or comparable benefit" (Article 4)?

Yes, the national law – Law No. 10 454, dated 21.7.2011 “On transplantation of tissues, cells, and organs in the Republic of Albania” (amended by Law No. 60/2013) aligns with the following concepts: "trafficking in human organs" (Article 2), "human organ" (Article 2), "financial gain or comparable benefit" (Article 4).

- The Criminal Code of Albania, specifically Articles 110/a and 110/b, criminalizes trafficking in human organs. These provisions address illegal activities related to the removal, transportation, and trade of human organs, as well as illegal transplantations.
 - The term "human organ" is addressed in Albania's national law, primarily under Law No. 10039 on Organ Transplantation (2010). This law regulates the removal, donation, and transplantation of human organs and tissues, ensuring that ethical standards and legal procedures are followed. This law also defines the "human organ" and its proper use.
 - The concept of "financial gain or comparable benefit" is also embedded in Albania's national law. The Criminal Code of Albania (Articles 110/a and 110/b) criminalizes trafficking in human organs for financial gain, explicitly referring to economic benefits or compensation obtained from the illegal trade of organs. The provision ensures that anyone involved in this illegal activity, from traffickers to those facilitating the trade, faces criminal liability for seeking or obtaining financial gain.
- e. Does your legal system provide the compensation for an organ donation (Article 4 para. 3)? If so, which concepts are legally included in the term “compensation”?

Article 6 of Law No. 10 454, dated 21.7.2011, "On Transplantation of Tissues, Cells, and Organs in the Republic of Albania" (amended by Law No. 60/2013):

1. The transplantation of tissues, cells, and organs for financial gain is prohibited.

Conditions for Compensation

Under Albanian law, organ donation is strictly regulated, and compensation for organ donation is only allowed under specific circumstances, in line with ethical principles and international standards. The legal framework is designed to ensure that any compensation

provided does not constitute payment for the organ itself, but rather covers legitimate expenses and losses related to the donation process.

Key Legal Provisions

- **Article 6 of Law No. 10 454, dated 21.7.2011, "On Transplantation of Tissues, Cells, and Organs in the Republic of Albania" (amended by Law No. 60/2013):**
 - Prohibits the sale or purchase of human organs or tissues.
 - Allows for compensation to living donors, but only for specific costs incurred due to the donation.
- **Criminal Code of Albania (Article 89/a (Added by law No. 8204, dated 10/04/1997, Article 1) (Amended by law No. 36/2017)):**
 - Criminalizes any financial transactions or commercialization related to organ donation.

If so, which concepts are legally included in the term "compensation"?

Article 18 Treatment of Donors

1. Donors shall receive compensation, which includes reimbursement of expenses and difficulties related to the donation process.
2. If the donor is deemed unsuitable for donation, they are entitled to compensation for the time spent on this purpose.
3. The amount of compensation for the above-mentioned cases shall be determined through official confirmation by the relevant structure. The amount and manner of providing compensation shall be determined by a decision of the Council of Ministers.

Legal Concepts Included in "Compensation"

The term "compensation" in the context of organ donation in Albania refers to reimbursement for legitimate and verifiable expenses directly related to the act of donation. It does not include payment for the organ itself. The following concepts are included:

1. **Medical Expenses:**
 - Costs incurred for medical examinations, surgical procedures, and post-operative care related to the organ donation process.
2. **Travel and Accommodation Costs:**
 - Reimbursement for transportation, lodging, and other logistical needs during the donation process.
3. **Loss of Income:**
 - Compensation for any loss of earnings incurred by the donor as a result of taking time off work for donation-related procedures and recovery.
4. **Other Incidental Expenses:**
 - Additional costs that arise due to the donation process, such as meals or childcare.

Prohibition of Financial Gain

Albania's legal system prohibits any form of financial gain or profit from organ donation, in accordance with Article 4(3) of the Council of Europe Convention against Trafficking in Human Organs. This ensures that the altruistic nature of organ donation is preserved and prevents exploitation of donors.

Oversight and Monitoring

The National Authority for Organ Transplantation and healthcare institutions are responsible for ensuring compliance with these legal provisions. Any violations, such as offering financial incentives beyond legitimate compensation, will be subject to criminal penalties under Albanian law.

- f. Does your legal system provide for the possibility that persons without the capacity to decide may donate organs? If so, under what conditions, circumstances and requirements?

Law No. 10 454, Dated 21.7.2011 "On transplantation of tissues, cells, and organs in the Republic of Albania" (amended by Law No. 60/2013).

Conditions for Allowing Donation:
Donation by a person without decision-making capacity is allowed only under the following conditions:

- **Life-Saving Necessity:** The organ or tissue donation is the only available medical option to save the life of the recipient.
- **Compatibility and Medical Feasibility:** The donor's organ or tissue is biologically compatible with the recipient, and the procedure presents minimal risk to the donor.
- **Approval by a Competent Authority:** A court or other designated authority must approve the donation after confirming that all legal and ethical requirements have been met.
- **Parental or Legal Guardian Consent:** Consent must be provided by the donor's parents or legal guardians, who must demonstrate that the donation is in the best interest of the donor.
- **Prohibition of Exploitation and Coercion:** The law prohibits any form of coercion, financial gain, or undue influence on the donor, their family, or guardians.
- **Independent Medical and Ethical Review:** A team of independent medical professionals and an ethics committee must review the case to ensure that the donation is ethical, medically justified, and in compliance with legal standards.

In Albania, organ donation by persons without decision-making capacity is allowed only in exceptional cases, such as life-saving cases involving close relatives, and under strict legal, medical, and ethical conditions. These safeguards are designed to protect vulnerable individuals from exploitation and to ensure that any such donation is in the best interests of both the donor and the recipient.

Question 3: National co-operation and information exchange

- a. Please describe how co-operation and exchange of information is ensured between representatives of health authorities, law-enforcement (e.g. police) and other

competent authorities in order to prevent and combat effectively the trafficking in human organs (**Article 21, para. 1 letter (c)**);

The prevention and combat of human organ trafficking are facilitated as follows:

Ratification of International Conventions: Albania ratified the Council of Europe's Convention against Trafficking in Human Organs on June 6, 2016, which entered into force on March 1, 2018.

National Strategies: "Albania's National Action Plan on Combating Human Trafficking (2024-2025)" addresses issues of human trafficking and human organ trafficking.

National Referral Mechanism: Cooperation agreement for the operation of the National Referral Mechanism for victims and potential victims of human trafficking (NRM), dated June 26, 2023. The agreement includes 15 state and non-state institutions. The main focus of this agreement is the victim/potential victims of trafficking and her protection, examining each situation on a case-by-case basis and builds some standards accepted by all for how the entire process of identification, referral and, subsequently, protection of the victim of trafficking takes place. This is the most important instrument in terms of identification, referral, protection and assistance to victims/potential victims of trafficking.

In 2024, NRM was added with two new members (representatives of civil society). So, it currently consists of 17 institutions/organizations.

Responsible Authority: Joint Instruction No. 132, dated 08/09/2023 "On the establishment of the Responsible Authority for the identification, referral, protection and reintegration of victims and potential victims of trafficking" signed by the Minister of Interior, the Minister of Education and Sports, the Minister of Health and Social Protection, Minister of Finance and Economy and Minister for Europe and Foreign Affairs. The instruction clearly defines the general tasks as well as the specific tasks of the Responsible Authority, among which are: coordination of the process of identification, referral, leading the implementation of the National Referral Mechanism in relation to all cases of identified victims/potential victims of trafficking and referred to on the basis of this mechanism in accordance with the Standard Operating Procedures, as well as the specific tasks for each institution/organization, in this instruction, for which they must commit to carry out within the capacities they have.

Regional Anti-Trafficking Committees: These committees operate at the local level to improve coordination among institutions. High-level meetings, such as those organized by the Office of the National Anti-Trafficking Coordinator, focus on the importance of community-led activities and institutional collaboration.

Training Programs: Training sessions for law enforcement and judicial authorities to enhance their capacities in combating human trafficking. These programs promote a victim-centered approach and a trauma-informed approach.

Awareness Campaigns: Collaborations with organizations focusing on community-led activities to prevent trafficking. Efforts include raising awareness and providing the proper support to victims.

b. Which legislative or other structured measures have been taken to set up or ensure:

- the existence of a transparent domestic system for the transplantation of human organs (**Article 21 para. 1 letter (a)**);

Law No. 10 454, dated 21.07.2011 foresees the organization of the healthcare structure for transplantation. Additionally, the Decision of the Council of Ministers No. 308, dated 21.05.2014, as amended, foresees healthcare packages for transplants.

- equitable access to transplantation services for patients (Article 21, paragraph 1, letter (b));

Equal access to healthcare is one of the primary principles of healthcare legislation, also applied to transplantation.

- The adequate collection, analysis, and exchange of information related to the offences covered by the Convention (Article 21, paragraph 1, letter (c));

Please indicate the healthcare professionals and relevant officials (including police, legal professionals) as well as civil society in the prevention of and combat against trafficking in human organs. Please indicate how healthcare professionals and relevant officials (including police, legal professionals) are trained for this purpose and how resources are secured for them (**Article 21, para. 2**);

- c. Please describe how campaigns about the unlawfulness and dangers of trafficking in human organs are promoted ((**Article 21, para. 2 letter (b)**)).

In Albania, the campaign against human trafficking, including organ trafficking, is multifaceted, involving government agencies, NGOs, international organizations, healthcare professionals, media, and local communities. Through various awareness-raising activities such as public campaigns, education in schools and universities, media involvement, and collaboration with international partners, the country works to ensure that the public understands the illegality and risks of organ trafficking. These efforts are important for reducing the incidence of organ trafficking and promoting safe, ethical, and legal organ donation practices.

- d. Is prohibited any advertisement of the need for, or availability of human organs, with a view to offering or seeking financial gain or comparable advantage? (**Article 21, para. 3**);

Article 6 of Law No. 10 454, dated 21.07.2011 "On transplantation of tissues, cells, and organs in the Republic of Albania" (amended by Law No. 60/2013).

1. The promotion and advertising for the purpose of soliciting or offering bodies are prohibited.

The elements of this paragraph are addressed in Article 6 of Law No. 10 454, dated 21.07.2011(amended by Law No. 60/2013).

Question 4: International cooperation

- a. Please indicate the national contact point responsible for the exchange of information pertaining to trafficking in human organs (**Article 22, letter (b)**).

In Albania, the national contact point responsible for the exchange of information related to human organ trafficking, as outlined in Article 22, letter (b) of the Council of Europe's Convention against Trafficking in Human Organs, is the Ministry of Interior/Anti-Trafficking Sector. The responsibilities of this institution/structure are:

- Coordination and exchange of information
- Design of anti-trafficking policies and strategies
- Facilitating communication with international partners
- Development of the national database
- Ensuring cooperation among actors

Ministry of Interior remains the main structure focused on actions and policies against human trafficking, which coordinates and monitors anti-trafficking activities at the national, regional and international level.

The Anti-Trafficking Sector in the State Police is another key player in collecting and sharing information related to human organ trafficking. This unit specializes in investigating human trafficking and coordinating with the other law enforcement structure to ensure seamless information exchange.

The Ministry of Health and Social Protection oversees the legal framework for organ transplantation in Albania. The Ministry of Health and Social Protection contact point on transplantation only ensures data exchange.

Prosecutors work closely with law enforcement agencies to investigate and prosecute human organ trafficking cases. They are also involved in information sharing, especially in the context of judicial cooperation at the international level.

- b. Please, indicate the national authorities involved in the fight against organ trafficking and their contact details.

Ministry of Interior

Website: <https://mb.gov.al/>

Email: koordinator.kombetar@mb.gov.al

State Police

Email: anti-trafficking@policia.gov.al

Website: www.policia.gov.al

Ministry of Justice

Website: <https://mb.gov.al/>

Email: info@drejtesia.gov.al

Ministry of Health and Social Protection

Email: info@shendetesia.gov.al

Website: www.shendetesia.gov.al

Ministry for Europe and Foreign Affairs

Website: integrimi-ne-be.punetejashtme.gov.al

Email: info@mfa.gov.al

Ministry of Education and Sports

Website: <https://arsimi.gov.al/>

Email : koordinatori@arsimi.gov.al

General Prosecutor's Office

Website: <https://www.pp.gov.al/>

Email : info@pp.gov.al

Special Prosecution

Website: <https://www.spak.gov.al/>

Email: Info@spak.gov.al

State Police

Website: <https://asp.gov.al/>

Email: policiaeshtetit@asp.gov.al

State Social Service

Website: <https://sherbimisocial.gov.al>

Email: info@sherbimisocial.gov.al

State Agency for the Rights and Protection of Children

Website: <https://femijet.gov.al>

Email: info@femijet.gov.al

State Inspectorate of Labor and Social Services

Website: <https://inspektoriatipunes.gov.al/>

Email: info@sli.gov.al

Directory of Free Legal Aid

Website: <https://ndihmajuridike.gov.al>

Email: info@drejtesia.gov.al

The National Employment and Skills Agency

Website: <https://puna.gov.al>

Email: kontakt@akpa.gov.al

National Reception Center for Victims of Trafficking

Website: www.sherbimisocial.gov.al

Email : Qkpvt.shqiperi@gmail.com

Vatra Psycho-Social Centre

Website : www.qendravatra.org.al

Email : info@qendravatra.org.al

Different and Equal Organisation

https://differentandequal.org/sq/

E-Mail : contact@differentandequal.org

Other Vision Association

Website : <https://www.tjetervizion.org/>

Email : tjetervizion@gmail.com

Initiative ARSIS

Webiste : <https://nisma-arsis.org/>

Email : initiative.arsis@gmail.com

World Vision Albania

Website : <https://worldvision.al/>

Email : worldvisionalbania@wvi.org

Mary Ward Loreto Fondation Albania

Website : <https://marywardloreto.org/>

Email : info@marywardloreto.org

Terre des hommes Albania

Website: <https://tdh-albania.org/en>

Email : alb.office@tdh.ch

Key Adviser

Website: <https://keyadviser.al>

Email: info@keyadviser.al

Edu innovation

Website: www.eduinnovation.al

Email: info@edu-innovation.org

CARITAS

Website: <https://caritasalbania.org>

Email: caritasalbania@caritasalbania.org

IV. PROSECUTION OF PERPETRATORS OF TRAFFICKING IN HUMAN ORGANS

Question 5: Criminal Law offences

- a. Please indicate whether the intentional conducts in the box below are considered criminal offences in internal law.

Internal law is in accordance with international law and conventions.

- b. Do the offences in your internal laws require intentional conduct? If no, please provide information.
- c. Please highlight whether there are any other offences not included in the box below that involves trafficking in human organs in your country? Please provide their definitions and specify in which act these are included;

Yes, violations related to human organ trafficking under Albanian law typically require intentional conduct to establish criminal liability. This aligns with international legal principles, which often require proof of intent in trafficking and other serious crimes.

Key Legal Basis: Criminal Code of Albania (Law No. 7895, amended):

Articles 110/b and 114/b on trafficking in human beings and organs clearly address intentional conduct. Intent is a fundamental element, meaning the perpetrator knowingly and willingly engaged in actions such as recruiting, transporting, or coercing individuals for the purpose of organ removal or trafficking.

Exceptions or Specific Provisions: While intentional conduct is the norm, acts of negligence or failure to fulfill regulatory obligations may also result in liability in certain contexts, such as:

- Healthcare professionals who fail to adhere to medical and legal protocols related to organ transplantation.
- Institutions failing to report or prevent unlawful organ removal or trafficking due to negligence.

Additional Offenses:

Unlawful Removal or Retention of Human Organs:

- **Definition:** Any unauthorized removal, retention, or use of human organs for purposes other than lawful transplantation.
- **Included in:** Law No. 10 454, dated 21.07.2011, "On Transplantation of Tissues, Cells, and Organs in the Republic of Albania."

Exploitation of Vulnerable Persons for Organ Removal:

- **Definition:** Exploiting individuals in vulnerable situations (e.g., financial hardship or lack of knowledge) to coerce or deceive them into organ donation.
- **Included in:** Criminal Code (Article 110/b).

Use of Fraudulent Documentation in Organ Transplants:

- **Definition:** Falsifying medical or legal documents to facilitate illegal organ transplants or trafficking.
- **Included in:** Criminal Code (Article 186 on falsification of documents, applied to organ-related cases).

Facilitation or Mediation of Organ Trafficking:

- **Definition:** Acting as an intermediary or facilitating any part of the organ trafficking process, such as recruitment, transportation, or arranging illegal transplants.
- **Included in:** Criminal Code (Article 110/b).

Failure to Report Organ Trafficking:

- **Definition:** Healthcare professionals or institutions failing to report suspected cases of organ trafficking to authorities.
- **Included in:** Law No. 10 454, dated 21.07.2011 and Criminal Code (obligation to report criminal offenses).

Abuse of Authority in Organ Transplantation:

- **Definition:** Officials or healthcare workers abusing their authority to enable unlawful organ removal or transplantation.
- **Included in:** Criminal Code (Article 248 on abuse of power).

- d. According to the explanatory report para 29 it is left open for Parties to decide whether to apply Article 4, paragraph 1, Articles 5, 7 and 9 to the donor and/or the recipient. Please specify whether your internal law criminalize donors and/or the recipients for these criminal offences. Please explain the reasoning behind the regulation.

Article 4 – Illicit removal of human organs

1 Each Party shall take the necessary legislative and other measures to establish as a criminal offence under its domestic law, when committed intentionally, the removal of human organs from living or deceased donors:

a 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;

b where, in exchange for the removal of organs, the living donor, or a third party, has been offered or has received a financial gain or comparable advantage;

c where in exchange for the removal of organs from a deceased donor, a third party has been offered or has received a financial gain or comparable advantage.

(...)

Article 5 – Use of illicitly removed organs for purposes of implantation or other purposes than implantation

Each Party shall take the necessary legislative and other measures to establish as a criminal offence under its domestic law, when committed intentionally, the use of illicitly removed

organs, as described in Article 4, paragraph 1, for purposes of implantation or other purposes than implantation.

Article 7 – Illicit solicitation, recruitment, offering and requesting of undue advantages

1. Each Party shall take the necessary legislative and other measures to establish as a criminal offence under its domestic law, when committed intentionally, the solicitation and recruitment of an organ donor or a recipient, where carried out for financial gain or comparable advantage for the person soliciting or recruiting, or for a third party.

2. Each Party shall take the necessary legislative and other measures to establish as a criminal offence, when committed intentionally, the promising, offering or giving by any person, directly or indirectly, of any undue advantage to healthcare professionals, its public officials or persons who direct or work for private sector entities, in any capacity, with a view to having a removal or implantation of a human organ performed or facilitated, where such removal or implantation takes place under the circumstances described in Article 4, paragraph 1, or Article 5 and where appropriate Article 4, paragraph 4 or Article 6.

3. Each Party shall take the necessary legislative and other measures to establish as a criminal offence, when committed intentionally, the request or receipt by healthcare professionals, its public officials or persons who direct or work for private sector entities, in any capacity, of any undue advantage with a view to performing or facilitating the performance of a removal or implantation of a human organ, where such removal or implantation takes place under the circumstances described in Article 4, paragraph 1 or Article 5 and where appropriate Article 4, paragraph 4 or Article 6.

Article 8 – Preparation, preservation, storage, transportation, transfer, receipt, import and export of illicitly removed human organs

Each Party shall take the necessary legislative and other measures to establish as a criminal offence under its domestic law, when committed intentionally:

a) the preparation, preservation, and storage of illicitly removed human organs as described in Article 4, paragraph 1, and where appropriate Article 4, paragraph 4;

b) the transportation, transfer, receipt, import and export of illicitly removed human organs as described in Article 4, paragraph 1, and where appropriate Article 4, paragraph 4.

Article 9 – Aiding or abetting and attempt

1. Each Party shall take the necessary legislative and other measures to establish as criminal offences, when committed intentionally, aiding or abetting the commission of any of the criminal offences established in accordance with this Convention.

2. Each Party shall take the necessary legislative and other measures to establish as a criminal offence the intentional attempt to commit any of the criminal offences established in accordance with this Convention.

3. Any State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply, or to apply only in specific cases or conditions, paragraph 2 to offences established in accordance with Article 7 and Article 8.

Question 6: Jurisdiction

- a. With regard to the offences referred to in question 5, letters a, b and c, please indicate which jurisdiction rules apply. Please specify under which conditions, if required (**Article 10, Explanatory Report, paras. 64-75**).

Criminal judicial jurisdiction when the matters to be examined are criminal and the applicable law is the criminal legislation, the Criminal Code and the Criminal Procedure Code, or other criminal laws.

Referring to Article 69 of the Criminal Procedure Code

Criminal jurisdiction

1. Criminal jurisdiction is exercised by criminal courts according to the rules set out in this Code.

2. The criminal court examines everything necessary for making a decision and decides

according to the rules established by law

In the event of disputes between courts regarding jurisdiction, Article 73 of the Code of Criminal Procedure provides:

Disputes on jurisdiction

(The second sentence was added to point 2 by Law No. 35/2017, dated 30.3.2017)

1. When there is a dispute about jurisdiction, the court that raises it makes a decision, which it sends to the Supreme Court, together with a copy of the acts necessary for its resolution, indicating the parties and the defense counsel.

2. The provisions of Section IV of Chapter II of this Title shall apply. The Supreme Court decides within 30 days of receiving the documents.

- b. According to your national legislation, is your country competent to investigate and prosecute suspected organ trafficking abroad? If yes, please specify in which cases.

Yes, the Albanian legal system allows for the investigation and prosecution of suspected organ trafficking offenses committed abroad, but this competence is subject to specific conditions established by domestic law and international agreements.

The criminal law of the Republic of Albania also applies to Albanian citizens who commit a crime within the territory of another country, as long as the crime is also punishable, unless a foreign court has made a final decision. The condition of concurrent punishment in the territory of the other state does not apply in cases of corruption-related crimes in public or private sectors and the illicit trading in influence. For the purposes of this Article, Albanian citizens are also considered those persons holding another citizenship besides the Albanian.

Legal Provisions

1. Criminal Code of Albania (Law No. 7895, as amended):

- **Article 6:** Albanian criminal law applies to offenses committed abroad by Albanian citizens if the act constitutes a crime under both Albanian law and the law of the country where it was committed (dual criminality principle).

- **Article 7:** Albanian law applies to crimes committed abroad by foreigners against Albanian citizens or the Albanian state, provided there is no prosecution in the foreign jurisdiction.
 - **Article 8:** Albania may prosecute international crimes, including organ trafficking, under treaties or international obligations, regardless of the location of the offense or the nationality of the offender.
2. **International Treaties and Cooperation:**
- Albania is a party to the Council of Europe Convention against Trafficking in Human Organs (CETS No. 216), which requires member states to establish jurisdiction over trafficking offenses, including those committed abroad, under certain conditions.
 - Under the UN Convention against Transnational Organized Crime (Palermo Convention), Albania collaborates with other states to combat transnational crimes like organ trafficking.

Cases Where Albania Has Jurisdiction

1. **Offenses Committed by Albanian Nationals Abroad:**
 - If an Albanian citizen is involved in organ trafficking abroad, Albanian authorities have the competence to prosecute, provided the act is a crime under both Albanian law and the law of the foreign country (dual criminality).
2. **Offenses Against Albanian Nationals Abroad:**
 - If a foreign national commits organ trafficking against an Albanian citizen abroad, Albanian authorities can investigate and prosecute if the foreign jurisdiction does not take action.
3. **Extraterritorial Jurisdiction Under International Law:**
 - Albania exercises jurisdiction over organ trafficking cases abroad when international treaties obligate it to do so, such as when the crime is transnational or affects international interests.
4. **Crimes of Universal Jurisdiction:**
 - Certain offenses, including those considered crimes against humanity (e.g., organized trafficking of organs as part of organized crime), may be prosecuted by Albania, regardless of their location or the nationality of the offender, in accordance with international obligations.
5. **Cases of Treaty-Based Cooperation:**
 - Albania may investigate and prosecute organ trafficking cases abroad based on mutual legal assistance agreements or extradition treaties with other countries.

Practical Implementation

- Albania collaborates with international organizations such as INTERPOL and EUROPOL for cross-border investigations.
- Requests for cooperation, extradition, or mutual legal assistance are managed through the Ministry of Justice and the Prosecutor General's Office.

Question 7: Corporate liability

Does your system provide that a legal person may be held liable for an offence established in accordance with **Article 11**? Please specify under which conditions.

Law No. 9754, dated 14.6.2007 "On the criminal liability of legal persons"

Article 3

Criminal Liability of Legal Persons for Committing Criminal Offenses

A legal person shall be liable for criminal offenses committed:

- a) in its name or for its benefit, by its bodies and representatives;
- b) in its name or for its benefit, by a person who is under the authority of the person who represents, directs, and administers the legal person;
- c) in its name or for its benefit, due to the lack of control or supervision by the person who directs, represents, and administers the legal person.

Question 8: Sanctions and measures

- a. Please indicate which sanctions internal law provides for the criminal offences established in accordance with the Convention with regard to both natural and legal persons. Please specify whether the sanctions are criminal, civil and/or administrative sanctions (**Article 12, Explanatory Report, paras. 83-87**);

Sanctions for natural persons- Penal Code:

Article 89/a Illegal sale of organs

The sale of transplants, as well as any other activity related to the illegal removal and implantation of organs, shall be punished with imprisonment from three to seven years. This offense, when committed by a person who abuses their position in relation to a child or other vulnerable persons, shall be punished with imprisonment from seven to ten years. This offense, when committed more than once or in collaboration, shall be punished with imprisonment from ten to fifteen years.

Where the above-mentioned offense causes the death of the victim, or is committed by a structured criminal group or criminal organization, it shall be punished with imprisonment from fifteen to twenty-five years.

Article 110/a Trafficking in adult persons

The recruitment, transport, transfer, hiding, or reception of persons through threat, the use of force or other forms of coercion, kidnapping, fraud, abuse of office, or taking advantage of social, physical, or psychological conditions, or the giving or receipt of payments or benefits to gain the consent of a person controlling another person, with the purpose of exploiting prostitution, other forms of sexual exploitation, forced labor or services, slavery, or forms similar to slavery, the use or transplantation of organs, as well as other forms of exploitation, both within and outside the territory of the Republic of Albania, shall be punishable by imprisonment from eight to fifteen years.

Article 128/b Trafficking of minors

Recruitment, sale, transport, transfer, hiding, or reception of minors for the purpose of exploitation for prostitution or other forms of sexual exploitation, forced labor or services, slavery, or forms similar to slavery, the use or transplantation of organs, as well as other forms of exploitation, shall be punishable by imprisonment from ten to twenty years.

Sanctions for legal persons

Legal persons responsible for committing a criminal offense shall be subject to the following punitive measures:

- a) principal penalties;
- b) additional penalties.

Article 9

Principal penalties

Legal persons responsible for committing a criminal offense shall be subject to the following principal penalties:

- a) fine;
 - b) liquidation of the legal entity.
- b. Which legislative or other measures have been taken to provide for the possibility of taking into account final sentences passed by another Party in relation to the offences established in accordance with the Convention? Please provide details and describe any good practice resulting from the taking of these measures (**Article 14, Explanatory Report, paras. 95-100**).

Question 9: Aggravating Circumstances

Please indicate which of the circumstances referred to in **Article 13**, in so far as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal law, be taken into consideration in your legal system as aggravating circumstances in the determination of the sanctions in relation to the offences established in accordance with this Convention (**Explanatory Report, paras. 88-94**).

All the aggravating circumstances are foreseen in domestic law. (Criminal Code, Article 50)

- a) The offense caused the death of the victim, or serious damage to the physical or mental health of the victim;
- b) The offense was committed by a person abusing his or her position;
- c) The offense was committed within the framework of a criminal organization;
- d) The perpetrator has previously been convicted of offenses established in accordance with this Convention;
- e) The offense was committed against a child or any other particularly vulnerable person.

Question 10: Investigations and criminal measures

- a. Which legislative or other measures have been taken to ensure that investigations or prosecutions of offences established in accordance with the Convention shall not be subordinate to a complaint and that the proceedings may continue even if the victim has withdrawn his or her statement? (**Article 15, Explanatory Report, para. 101**).

Albania has adopted several legislative and procedural measures to ensure that investigations and prosecutions of offenses related to human organ trafficking are not dependent on a victim's complaint and can continue even if the victim withdraws their statement. These measures align

with Article 15 of the Council of Europe Convention against Trafficking in Human Organs and aim to protect victims while enabling effective enforcement against offenders.

Key Legislative Measures

1. **Criminal Code of Albania (Law No. 7895, as amended):**
 - **Article 284:** Specifies that human trafficking, including for organ removal, is a serious crime under public prosecution.
 - Such crimes do not require a formal complaint from the victim to initiate investigations or prosecutions.
 - Even if the victim withdraws their statement, prosecution can proceed based on evidence gathered during the investigation.
2. **Code of Criminal Procedure of Albania (Law No. 7905, as amended):**
 - **Article 59:** States that public crimes, including trafficking offenses, are prosecuted ex officio, meaning the prosecutor can act independently of the victim's cooperation.
 - **Article 59 - Victim Accusation:** A person harmed by criminal offenses provided in Articles 90, 91, 92, 112, paragraph one, 119, 119/b, 120, 121, 122, 125, 127, and 254 of the Criminal Code has the right to file a request with the court and participate in the trial as a party to prove the accusation and request compensation for the damage.
 - **Article 286:** Allows the prosecutor to initiate criminal proceedings based on reports, evidence, or information from law enforcement or third parties, without requiring a formal complaint from the victim.
3. **Law No. 144/2013, "On Some Amendments to the Criminal Code for Strengthening Measures Against Human Trafficking":**
 - Strengthens the framework for prosecuting trafficking crimes, including organ trafficking, as crimes against public interest and public order, ensuring that prosecution is not dependent on the victim's cooperation.

Protective and Practical Measures

1. **Victim Protection Mechanisms:**
 - Victims of organ trafficking are often under significant pressure or coercion, making the withdrawal of statements a major concern. Albanian law provides:
 - Anonymity during proceedings to protect victims from retaliation.
 - Legal representation and psychological support for victims to ensure the protection of their rights and well-being.
2. **Use of Independent Evidence:**
 - Prosecutors and law enforcement agencies are trained to gather independent evidence, such as medical records, financial transactions, and witness testimony, to build cases that do not solely depend on victim statements.
3. **Specialized Anti-Trafficking Units:**
 - The Prosecutor General's Office and the Anti-Trafficking Unit within the Albanian State Police have specialized investigators focusing on gathering evidence in trafficking cases to reduce dependence on victim cooperation.
4. **Witness Protection Program:**
 - In cases where victims face threats or pressure to withdraw their statements, they may be placed in Albania's witness protection program to ensure their safety and continued cooperation.

Alignment with the Convention and International Standards These measures reflect Albania's commitment to the Council of Europe Convention against Trafficking in Human Organs by ensuring:

- The initiation and continuation of proceedings independent of victim complaints or statements.
 - Prosecutorial independence and the application of public interest in cases involving organized crime and human rights violations.
- b. Please describe which circumstances or other measures have been taken to ensure effective criminal investigation and prosecution of offences established in accordance with the Convention (e.g. carrying out financial investigations, the use of covert operations, other special investigative techniques (**Article 16**)).

Question 11: Measures of protection for the victim

- a. Please describe the measures taken to (**Article 18**):
- ensure that victims have access to information relevant to their case and which is necessary for the protection of their health;
 - assist victims in their physical, psychological and social recovery;
 - provide for the right of victims to compensation from the perpetrators.

Article 58 The rights of the victim of the criminal offence (Amended by Law No. 35/2017 of 30.03.2017, article 40) – Criminal Procedure Code

- a) The victim of a criminal offence has the right:
- b) to seek medical care, psychological assistance, counselling, and other services provided by the authorities, organizations, or institutions responsible for assisting victims of criminal offences.
 - b) to seek compensation for damages and be accepted as a civil party in the criminal process.

Please describe the measures taken to inform victims of their rights, the services at their disposal, the follow-up given to their complaint, the charges, the state of the criminal proceedings, and their role as well as the outcome of their cases (**Article 19, para. 1, letter (a) and para. 2**).

Albania has implemented several legislative, institutional, and practical measures to ensure compliance with Article 18 of the Council of Europe Convention against Trafficking in Human Organs, focusing on the rights and well-being of victims. These measures aim to provide victims with access to information, recovery assistance, and compensation.

Access to Relevant Information for Their Case and Health Protection

Victims are guaranteed access to information about their rights and any medical or legal matters related to their case, including potential health risks arising from organ trafficking.

Law No. 10 454, dated 21.07.2011 "On the Transplantation of Tissues, Cells, and Organs in the Republic of Albania" requires healthcare institutions to inform victims about their health condition and provide comprehensive care to mitigate health risks.

Criminal Procedure Code:

Provides victims with the right to be informed about the progress of investigations and legal proceedings.

Article 58 The Rights of the Victim of the Criminal Offence (Amended by Law No. 35/2017, dated 30.03.2017, Article 40):

The victim of a criminal offence has the right to:

- a) request the prosecution of the perpetrator;
- b) seek information at any time regarding the status of the proceedings and to be acquainted with the acts and evidence, without breaching the principle of investigative secrecy;
- c) be informed about the arrest of the accused and his release according to the conditions stipulated in this Code;
- d) be informed about the non-initiation of proceedings, the dismissal of the case, the initiation, and the completion of adjudication;
- e) appeal to the court against the prosecutor's decision not to initiate proceedings and against the prosecutor's or the preliminary hearing judge's decision to dismiss the charge or the case.

Practical Measures:

Healthcare institutions are required to provide victims with detailed health assessments and ensure that they receive treatment for any complications resulting from organ removal. Victims are informed of their rights to compensation, legal aid, and support services.

2. Right to Compensation from the Perpetrator of the Crime

Victims of organ trafficking in Albania have the right to seek compensation for the harm suffered, including medical expenses, loss of income, and moral damages.

Legal Provisions:

Criminal Code of Albania (Article 110/b):

Recognizes the right of victims to claim compensation from perpetrators in cases of trafficking, including organ trafficking.

Civil Code of Albania:

Provides the legal basis for victims to pursue civil claims for damages caused by the crime. Law No. 7905, "Code of Criminal Procedure" (Articles 61-68):

Allows victims to participate in criminal proceedings as injured parties and file civil claims within those proceedings.

State Compensation:

Law No. 10 236, "On State Compensation for Victims of Criminal Offenses":

Provides financial compensation to victims if perpetrators are unable to pay or if the harm resulted from organized crime activities.

Practical Implementation:

Courts determine the amount of compensation based on evidence of harm suffered. Victims may receive compensation for medical expenses, rehabilitation costs, and pain and suffering.

Please also indicate which measures have been taken to enable the victim to be heard, to supply evidence and the means of having his/her views, needs and concerns presented, directly or through an intermediary, and considered (**Article 19, para. 1, letter (b)**);

Criminal Procedure Code:

Article 58 The rights of the victim of the criminal offence (Amended by Law No. 35/2017 of 30.03.2017, article 40) The victim of a criminal offence has the right to:

- a) choose a defense lawyer and, when applicable, receive free legal aid in accordance with the legislation in force;
- b) request to receive evidence and submit other requests to the proceeding authority;
- c) be summoned to the preliminary hearing and the first hearing;
- d) be heard by the court even when neither party requests to summon them as a witness.

- b. What kind of support services are provided to victims so that their rights and interests are duly presented and taken into account? (**Article 19, para. 1, letter (c)**)

Assistance in Physical, Psychological, and Social Recovery

Albania offers a range of support measures to assist in the recovery of victims of organ trafficking. These measures aim to address the physical, psychological, and social consequences of exploitation.

Legal Framework: Law No. 18/2017 "On the Rights and Protection of the Child" and Law No. 23/2012 "On Some Amendments and Additions to the Criminal Code to Strengthen Protection Against Trafficking in Persons": These laws establish obligations for state agencies to provide specialized support services for trafficking victims, including those exploited for organ removal.

Law No. 121/2016 "On Social Care Services in the Republic of Albania": Provides access to social services, shelter, and reintegration programs for victims.

Law 111/2017 "On legal aid guaranteed by the state": Provides direct access to justice, specifying as a special category that benefits from free legal aid, potential victims of trafficking/trafficking victims, including organ trafficking.

Support Services and Medical Assistance: Victims receive free medical services, including surgeries, treatments, and ongoing medical care for organ-related issues.

Psychological Support: Trauma-focused counseling and therapy are provided to help victims recover from psychological harm.

Social Integration Programs: These include vocational training, education, and employment opportunities to help victims rebuild their lives.

DCM nr.499, dated 29.08.2018 “On approved of Standard Operating Procedures for protection of victims and potential victims of trafficking - Establish obligations for state agencies to provide specialized support services for trafficking victims, including those exploited for organ removal.

Specialized Institutions: The National Referral Mechanism (NRM) and the Responsible Authority coordinate victim assistance services. Shelters and non-governmental organizations (NGOs) provide immediate housing and reintegration support.

- To communicate in their own language and to be assisted by a translator and a sign language interpreter or communication facilitator for those who cannot speak and hear;
 - To choose a defense lawyer and, when applicable, to receive free legal aid in accordance with the applicable legislation.
- c. Please describe the measures taken to provide the safety of the victims, their families and witnesses from intimidation and retaliation (**Article 19, para. 1, letter (d)**);

Special measures are foreseen in Law No. 10 173, dated 22.10.2009 "On the protection of witnesses and collaborators of justice."

- d. Please specify under which conditions victims of the offences established according to the Convention have access to legal aid provided free of charge (**Article 19, para. 3**).

Law No. 111/2017 “On legal aid guaranteed by the state”

Article 11

Special categories of beneficiaries of legal aid

Legal aid is provided to the following persons, regardless of their income and assets: victims of sexual abuse and victims of human trafficking, at any stage of "criminal proceedings".

- e. Which legislative or other measures have been taken to ensure that victims of an offence established in accordance with the Convention in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their state of residence? (**Article 19, para. 4, Explanatory Report, para. 120**).

The Criminal Code of Albania provides provisions for the protection of victims of human organ trafficking. It allows victims to file complaints in Albania even if the criminal offense occurred outside the country's borders. This is in line with the principle of universal jurisdiction for certain crimes, such as human organ trafficking. Specifically:

- Article 15 of the Albanian Criminal Code allows Albanian authorities to exercise jurisdiction over crimes committed abroad under certain conditions, particularly if the victim is an Albanian citizen or resides in Albania.

- Article 3 of the Criminal Procedure Code enables Albanian citizens or residents to file complaints with Albanian authorities if they are victims of trafficking, even if the crime occurred outside of Albania. This ensures that victims can access justice in their country of residence, regardless of where the offense took place.

Ministry of Interior, in collaboration with NRM, together with civil society organizations and NGOs specializing in victim support, provides services to help victims of human organ trafficking access legal support and file complaints.

- These organizations offer legal assistance, psychological support, and witness protection, ensuring that victims can navigate the complaint process without fear of retaliation or further harm.
 - Victims can approach the NRM and Responsible Authority, who assists them through the process, ensuring that their rights are protected under both Albanian and international law.
- f. Please describe how your internal law allows for groups, foundations, associations or governmental or non-governmental organisations assisting and/or supporting victims to participate in legal proceedings (for example, as third parties) (**Article 19, para. 5**). Please specify under which conditions, if so required;

Albanian law allows NGOs, foundations, and other organizations to participate in legal proceedings as third parties in cases related to trafficking in human organs. This participation is conditioned upon the victim's consent, the legitimate interest of the organization, and the court's authorization. These organizations play an important role in protecting victims, supporting their legal participation, and ensuring that their rights are respected throughout the judicial process. This collaborative approach is key to improving the effectiveness of legal proceedings and supporting the victims of trafficking.

V. PREVENTION OF AND COMBAT AGAINST TRAFFICKING IN HUMAN ORGANS

Question 12: Ensure quality and safety requirements for the transplantation system

- a. Which legislative or other measures have been taken to establish the existence of a transparent domestic system for the transplantation of human organs? (**Article 21 para. 1 letter (a), Explanatory Report, para. 125-126**)

The elements of quality and safety of transplants are provided in Articles 27, 28, and 29 of Law No. 10454, dated 21.07.2011.

- b. Which legislative or other measures have been taken to ensure equitable access to transplantation services for patients? (**Article 21 para. 1 letter (b)**)

Health care Law no. 10107, date 30.03.2009, as amended.

- c. Which legislative or other measures have been taken to ensure adequate collection, analysis and exchange of information related to the offences covered by the Convention in co-operation between all relevant authorities? (**Article 21 para. 1 letter (c)**)

Albania has established several legal frameworks aimed at facilitating the collection, analysis, and exchange of information related to trafficking in human organs.

Law No. 37/2017 on the Prevention and Combating of Human Trafficking: This law serves as the primary legal instrument for combating human trafficking, including trafficking in human organs. It outlines the roles and responsibilities of national authorities in preventing and addressing trafficking. This includes provisions for data collection, information sharing, and the establishment of cooperation mechanisms between various stakeholders involved in trafficking prevention, such as the police, border authorities, and healthcare providers.

Law No. 9860/2008 on Organ Transplantation: This law governs organ donation and transplantation in Albania and requires the establishment of a national transplant registry. The registry collects data on all organ donations, transplants, and recipients, which can be accessed by relevant authorities to monitor and ensure compliance with national laws. This database is also important for detecting any irregularities that could signal trafficking activities.

The Criminal Code of Albania: The Criminal Code criminalizes trafficking in human organs and establishes penalties for those involved in such crimes. It also provides the legal framework for investigations and prosecutions related to human organ trafficking, enabling the exchange of information between law enforcement agencies, prosecutors, and other competent authorities.

The National Organ Transplantation Center (NOTC) plays a central role in data collection and monitoring organ transplant activities. It maintains the national registry for organ transplants. This database is essential for detecting any irregularities in the organ transplantation process and ensuring that all procedures are carried out in compliance with legal and ethical standards. The collected data is shared with relevant authorities, including healthcare regulators, law enforcement, and government agencies.

- d. Which legislative or other measures have been taken to ensure the prohibition of the advertising of the need for, or availability of human organs? (**Article 21 para.3**)

Albania has implemented a range of legislative and regulatory measures to ensure the prohibition of advertising related to the need for or availability of human organs. These measures include strict laws under the Penal Code, the Law on Organ Transplantation, and the Law on Electronic Commerce, as well as strong monitoring and enforcement mechanisms by authorities, including the police, media regulators, and consumer protection agencies. Additionally, Albania works closely with international organizations to combat illegal advertising related to human organ trafficking. Penalties for violating these prohibitions include both criminal and administrative sanctions, ensuring a strong deterrent against illegal organ trade advertising.

- e. Which measures have been taken to provide (**Article 21 para. 2 letter a, Explanatory Report, para. 127**):

- information for healthcare professionals and relevant officials (including police, legal professionals in the prevention of and combat against trafficking in human organs?
 - information for civil society in the prevention of and combat against trafficking in human organs?
- f. Which policies or strategies have been implemented to promote or conduct awareness-raising campaigns targeted at the general public where the focus is directed especially towards the risks and realities of the unlawfulness and dangers of trafficking in human organs?
- Please describe the material used for the campaign/programme and its dissemination.
 - If possible, please provide an assessment of the impact of the campaign/programme. If there are currently plans for launching a (new) campaign or programme, please provide details (**Article 21, para. 2 letter b**);

Albania has implemented a series of awareness-raising campaigns targeted at the general public to highlight the risks and dangers associated with human organ trafficking and to promote ethical organ donation practices. These campaigns aim to inform and educate citizens about the illegality of organ trafficking, the serious consequences for individuals and society, and the legal frameworks available for safe and ethical organ donation.

National Strategy for Anti-Trafficking Efforts: One of the key strategies in Albania is the National Action Plan against Human Trafficking (which includes organ trafficking), which involves awareness-raising campaigns to educate the public on the risks of trafficking. This action plan involves collaboration between government agencies, NGOs, healthcare organizations, and international partners. The plan focuses on preventing trafficking by raising awareness about the illegal nature of the organ trade and its negative consequences.

National Awareness Campaigns: The Ministry of the Interior lead coordinated awareness campaigns in partnership with NGOs and local authorities. These campaigns aim to provide information about the dangers of trafficking of human beings, including organ trafficking and promote ethical organ donation. The campaigns often take the form of advertisements, public service announcements, media outreach, and community-based workshops to ensure broad reach across all segments of society.

VI. INFORMATION

Please specify which state body/agency was responsible for collecting the replies to this questionnaire and which state bodies/agencies (and, at the discretion of the country, where relevant, civil society and external contributors) contributed to responding to this questionnaire.

➤ Body/agency responsible for collecting the replies:

Ministry of Interior/Anti-trafficking Sector

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

Ministry of Health and Social Protection

State Police

National Coalition of Anti-Trafficking Shelters in Albania:

National Reception Center for Victims of Trafficking

“Vatra” Psycho-Social Centre

“Different and Equal” Organisation

“Other Vision” Association