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## GENERAL OVERVIEW QUESTIONNAIRE

## COUNTRY PROFILE QUESTIONNAIRE

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# 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**  
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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 Organs<sup>1</sup> (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 website<sup>2</sup>.*

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*

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

<sup>2</sup> 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.

*Article 91 of the Constitution of the Republic of Latvia generally states that all human beings in Latvia shall be equal before the law and the courts. Human rights shall be realised without discrimination of any kind. Likewise, Article 8 of the Criminal Procedure Law states that the Criminal Procedure Law shall determine a uniform procedural order for all persons involved in criminal proceedings irrespective of the origin, social and financial situation, employment, citizenship, race, nationality, attitude toward religion, sex, education, language, place of residence, and other conditions of such persons.*

#### 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;

*In order to comply with the requirements of the Convention, two laws were amended in the regulatory framework of Latvia - the Criminal Law, which was amended on June 6, 2019 and entered into force on July 3, 2019, and the law " On the Protection of the Body of Deceased Human Beings and the Use of Human Tissues and Organs in Medicine" or the Law on Organs (further in text – OL), which was adopted on May 16, 2019.*

*Article 139 of the Criminal Law was amended to make a person liable not only for the illegal removal of tissues and organs, but also for the use of illegally removed tissues and organs to ensure compliance with Articles 5 and 8 of the Convention, as the term "use" also covers preparation, preservation, storage, transportation, transfer, receipt, import and export of illegally removed human organs.*

*The prepared amendments also expanded the purpose of Article 139 of the Criminal Law. Previously, Article 139 of the Criminal Law provided for liability for the illegal removal of tissues or organs for medical use. On the other hand, Article 5 of the Convention provides for criminal liability for the use of illegally removed organs for implantation or other purposes. Therefore, the purpose of Article 139 has been expanded to include liability for the illegal removal or use of tissues or organs for medical or any other purposes.*

*Regarding the subject of the criminal offense, only medical practitioner could be prosecuted for the criminal offense provided for in the first and second parts of Article 139 of the Criminal Law. Therefore, the amendments were intended to apply to the special subject in the first and second parts of Article 139 of the Criminal Law.*

*The responsibility for committing the criminal offenses mentioned in the article was also strengthened, if they were committed for the purpose of acquiring property or if they have been committed by a group of persons, or if they have been committed by a medical practitioner or if they have been committed by an organised group.*

*The Criminal Law was supplemented with a new Article 139.<sup>1</sup>, providing responsibility for the recruitment of a donor or recipient for illegal removal or transplantation of tissue or organs from a living human being, thus ensuring compliance with Article 7, Paragraph 1 of the Convention. Previously, certain cases of recruitment of tissue and organ donors could be qualified as human trafficking because exploitation in the context of the concept of human trafficking is also the sending of a person for organ removal. However, the scope of the convention is broader and includes not only donor recruitment but also recipient recruitment. Before the amendments were made, there was an unclear regulation in the regulatory framework of Latvia in connection with the mechanism of how persons are notified of the rights set forth in the Law on Organs, which created a situation where it was actually impossible to establish the composition of a criminal offense provided for in Article 139 of the Criminal Law. Article 2 of the OL was amended, stating that any person of legal age during his or her lifetime is entitled to express his or her will to prohibit or permit the use of his or her body, tissues, and organs after death, inter alia, indicate the purpose of use thereof by making a note in the unified electronic information system of the health sector, instead of submitting it to the Citizenship and Migration Affairs Department. Thus, each person has the opportunity to access the health information system and each person can make their own choices. In addition, the health information system is available to medical professionals. In addition, in the health information system, the contact person must be specified for the person, which can be a relative or another close person.*

*Also, the law was amended that the right to express the will to prohibit or allow the use of the body, tissues and organs of a minor child after death belongs to one of the legal representatives of the minor child, instead of referring to the rights of the parents as before, thus imposing the right to find out the opinions of all parents or guardians.*

*Also, it was specifically stipulated in the law that during life a person has the right to prohibit or allow the expressed will to use his body, tissues, and organs after death.*

*The law imposed an obligation on the Ministry of Health to inform the public about the expression of wishes regarding the use of the body, tissues and organs after death. Thus, society will be positively informed about its right to express a will regarding the use of the body, tissues and organs after death and other aspects related to the expression of a will, and will be able to make an informed choice.*

*Taking into account the requirements of the Convention, as well as the judgments of the European Court of Human Rights in the cases "Petrova v. Latvia" (No. 4605/05) and "Elberte v. Latvia" (No. 61243/08), the OL stipulates that the medical institution (tissue and organ removal center) is obliged to find out information about the deceased person's wish to prohibit or allow the use of his body, tissues and organs after death through the donor registry (e-health system), and if no personal will is registered in the donor registry, then from the present close relative (spouse, parents, adult child, brother, sister or contact person of the deceased person specified in the health information system)). In this way, not only the next of kin have the right to inform the medical institution about the will expressed during the deceased's lifetime to prohibit or allow the use of his body, tissues and organs after death, but the medical institution (tissue and organ removal center) has the obligation to find out this information from the next of kin, thus also the next of kin receive information about their rights.*

*If there is no information about the dead person's prohibition or permission to use his body, tissues, and organs after death, and it was not possible to find out his will expressed during his lifetime from his close relatives, it is presumed that this person's consent to allow the use of his body, tissues and organs after death (OPT-OUT "soft" system). Sequence - no personal*

*will is registered in the population register, there are no relatives present and it is impossible to find the next of kin.*

*Also, the law provided for the duty of the medical institution to inform the immediate relatives present about the use of the body, tissues and organs of the deceased person and its legal aspects. The provision refers to informing relatives of their rights under the Law on Organs, intended use of deceased organs and similar practical information to help relatives better understand the investigation procedures. This provision does not provide for the obligation to disclose information that relatives should not receive, for example, the identity of the person or persons to whom the dead organs will be implanted, etc.*

*Also, the law specifically stipulated the time until which the next of kin can exercise their rights, that is, until the beginning of the tissue and organ removal operation, the next of kin of the deceased have the right to express the will expressed during the life of the deceased person to allow or prohibit the use of his body, tissues and organs after death treatment institution (tissue and organ harvesting center).*

*In order to comply with Article 31, paragraph 3 of the Convention (measures aimed at prohibiting advertising of the need or availability of human organs with the intention of obtaining profit or equivalent benefit), the OL established that advertising or public distribution of any information which offers tissues or organs of a living or deceased human being for the purpose of gaining financial benefit or equivalent advantage or which expresses interest in obtaining tissues or organs of a living or deceased human being is prohibited. Only information measures to improve public awareness of the need for and importance of donation of human body, tissues, and organs are permitted. Thus also covering advertisements placed on classifieds portals, since until then only advertising of such activities, which is a narrower concept, was prohibited.*

- 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;

*There is no specific national strategy and/or an Action Plan to combat against the trafficking in human organs. There is a national human trafficking plan that includes measures to prevent human trafficking in its various forms (see subparagraph 'c' below).*

*Latvia participates in the "Network of National Focal Points on Travel for Transplantation"; Latvian Association of Transplantologists provides informative work with professional medical associations and patient associations; information on possible illicit transplantation/donation cases are analysed and collected by MoH officially nominated NFP (national focal point) and in suspicious cases information is sent to State Police*

- 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.

*Leading Ministry regarding the human trafficking issue is the Ministry of Interior which is responsible for developing the state policy to combat trafficking.*

*On September 28, 2021, the Cabinet of Ministers adopted the "Human Trafficking Prevention Plan for 2021-2023".*

- 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)

*The Criminal Law of Latvia establishes criminal liability for both the removal and use of organs, as well as the recruitment of a donor or recipient for the illegal removal or transplantation of human tissues or organs. Article 2 of the Convention defines the term "trafficking in human organs" as any illegal activity related to human organs as defined in Article 4(1) and Articles 5, 7, 8 and 9 of this Convention, so please see the questionnaires Point a) of question 5, where the articles of the Criminal Law, which provide for responsibility for the trade in human organs, are listed.*

- "human organ" (Article 2)

*Cabinet of Ministers Regulation of January 29, 2013 No. 70 "Regulations Regarding Use of Human Organs in Medicine, as well as Use of Human Organs and Body of Deceased Human Being for Medical Studies" Paragraph 2, 2.10. subsection defines the term "organ" as a part of the human body, formed by different tissues, that maintains its structure, vascularisation, and capacity to develop physiological functions with a significant level of autonomy, as well as a part of an organ, if it is to be used for the same purpose as the entire organ in the human body, maintaining the requirements of structure and vascularisation.*

- "financial gain or comparable benefit" (Article 4)?

*Criminal responsibility for the articles of the Criminal Law, which provide for responsibility for the offenses referred to in Article 4, Paragraph 1 of the Convention, also occurs if the victim has been offered money, or if the person who committed the criminal offense for the purpose of acquiring property. Compensation to the victim provided by law is compensation for the damage caused and not material benefit.*

*The paragraph 3 of Article 139 of the Criminal Law defines "the purpose of acquiring property" as a qualifying feature for the illegal removal or use of the tissues or organs of a dead person for medical or any other purposes.*

*Similarly, the paragraph 2 of Article 139.<sup>1</sup> of the Criminal Law defines "the purpose of acquiring property" as a qualifying feature for recruiting a donor or recipient for the illegal removal or transplantation of human tissues or organs.*

*The offense may also be qualified as unauthorised receipt of benefits, commercial bribery, accepting bribes, misappropriation of a bribe, giving of bribes, trading with influence, unlawful requesting and receiving of benefits, unlawful giving of benefits, if signs of these elements are found. Article 18 of the OL states that the selection, sending, and use of tissues and organs as a commercial transaction is prohibited.*

- 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"?

*Criminal responsibility for the articles of the Criminal Law, which provide for responsibility for the offenses referred to in Article 4, Paragraph 1 of the Convention, also occurs if the victim has been offered money, or if the person who committed the criminal offense for the purpose of acquiring property. Compensation to the victim provided by law is compensation for the damage caused and not material benefit.*

*Article 19 of the OL stipulates that a living organ donor has the right to receive the State guaranteed medicinal aid free of charge until the end of his or her life. Article 6 of the Health Care Financing Law stipulates that organ donors are released from the patient co-payment. No compensation provided.*

- 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?

*The paragraph 3 of Article 2 of the OL states that one of the lawful representatives of a minor has the right to express the will to prohibit or permit the use of the body, tissues, and organs of the minor after death by making a note in the health information system or by expressing the relevant will to a medical treatment institution (tissue and organ procurement centre). The paragraph 1 of Article 4 of the OL stipulates that if there is no information in the health information system on the will of the deceased human being expressed during his or her lifetime to prohibit or permit the use of his or her body, tissues, and organs after death, the medical treatment institution (tissue and organ procurement centre) has the obligation to clarify the information on the will of the deceased human being expressed during his or her lifetime to prohibit or permit the use of his or her body, tissues, and organs after death, by turning to the present next of kin (spouse, parents, adult child, brother, sister, or a contact person of the deceased human being indicated in the health information system). On the other hand, the paragraph 4 of Article 4 of the OL states that if the relevant State information system does not contain information on the will of the deceased human being expressed during his or her lifetime to prohibit or permit the use of his or her body, tissues, and organs after death, and it is not possible to ascertain from the next of kin according to Paragraphs one and two of this Section the will of the deceased human being expressed during his or her lifetime to prohibit or permit the use of his or her body, tissues, and organs after death, it shall be presumed that the deceased human being during his or her lifetime has expressed the permission to use his or her body, tissues, and organs after death.*

*In those cases, when organ procurement is planned from a person without the capacity to decide (In cases where the procurement of organs is intended from a person who could not decide and express his opinion about donating his organs for transplantation before death, the OPT-IN system is applied (requiring informed consent, for example, from parents or officially appointed guardians if the procurement of organs is intended from a pediatric donor's). Regarding organ donation, informed consent (OPT-IN system) is needed from close relatives or guardian; if there is no possibility to get informed consent, organ retrieval is not performed.*

### **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 Medical Treatment Law stipulates that if a medical institution assists a patient and has reason to suspect that the patient has been subjected to violence, the institution must promptly notify the State Police with notification made no later than 12 hours following the suspicion. Institutions cooperate in accordance with the first part of Section 54 (Provisions for Cooperation) of the State Administration Structure Law, to perform their functions and tasks.*

*In accordance with the Section 7 (Co-operation of the Police) and with the second clause of the first part of Section 10 (Basic Duties of Police Officers) of the Law "On Police" the police co-operate with institutions, private individuals and associations of persons. In accordance with the tasks of the police, the basic duties of a police officer, in conformity with the competence of the service, are also to transfer the information received regarding incidents endangering the safety of persons or society to the competent officials and authorities. Therefore, the Law "On Police" also establishes the institute of police cooperation with other institutions.*

*Latvia participates in the "Network of National Focal Points on Travel for Transplantation"; Latvian Association of Transplantologists provides informative work with professional medical associations and patient associations, information on potentially illicit transplantation/donation cases is collected through these associations, medical workers; information on possible illicit transplantation/donation cases are analysed and collected by MoH officially nominated NFP (national focal point) and in suspicious cases information is sent to State Police*

- 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)**);

*The field of organ transplantation is regulated by Law On the Protection of the Body of Deceased Human Beings and the Use of Human Tissues and Organs in Medicine (the legal framework included therein has been adjusted in order to ensure the effective application of the Council of Europe Convention of 25 March 2015 on the fight against trafficking in Human organs) and Cabinet of Ministers Regulation No. 70 of 29 January 2013, Regulations regarding the use of Human organs in medicine, as well as the use of Human organs and the body of a deceased person for medical studies. The legal framework outlined in both national law and the regulations set forth by the Cabinet of Ministers is rooted in Directive 2010/53/EU of the European Parliament and of the Council, dated 7 July 2010. This directive pertains to the standards of quality and safety for human organs intended for transplantation. Furthermore, it draws from Commission Implementing Directive 2012/25/EU of 9 October 2012, which establishes procedures for the exchange of information regarding human organ transplantation among Member States.*

*Legally organ recovery from deceased donors is possible only with participation of certified transplantologists; Latvian Association of Transplantologists provides informative work with professional medical associations and patient associations; Latvia participates in the "Network of National Focal Points on Travel for Transplantation"; Paula Stradins Clinical University Hospital (further in text – PSCUH) home page provides information on organ transplantation in Latvia; medical university provides lectures on basics of transplantation for medical students; PSCUH provides information on organ transplantation for Latvia's society through mass-media*

- equitable access to transplantation services for patients (**Article 21 para. 1 Letter (b)**);

*According to the Law on the Rights of Patients every individual has the right to receive healthcare that is appropriate and qualified for their health condition, regardless of the nature or severity of their illness. Ensuring patient rights prohibits discriminatory attitudes based on a person's race, ethnic origin, skin colour, gender, age, disability, health condition, religious,*

political, or other beliefs, national or social origin, financial or family status or any other circumstances.

*The State Police, when conducting an investigation related to the illegal removal and use of human tissues and organs (Article 139 of the Criminal Law) or the recruitment of donors and recipients of human tissues and organs (Article 139.1 of the Criminal Law), enter information into the Criminal Process Information System (KRASS).*

*One national waiting list for organ transplant recipients (in PSCUH Latvian Transplantation Centre); expenses, associated with organ transplantation and posttransplant immunosuppressive medication are covered by State; Latvian Association of Transplantologists provides informative work with professional medical associations and patient associations; PSCUH home page provides information on organ transplantation and waiting list in Latvia; information on organ transplantation for Latvia's society through mass-media.*

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

*Latvia participates in the "Network of National Focal Points on Travel for Transplantation"; information on possible illicit transplantation/donation cases are analysed and collected by MoH officially nominated NFP (national focal point) and in suspicious cases information is sent to State Police; Latvian Association of Transplantologists provides informative work with professional medical associations and patient associations.*

- 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**);

*Recommendations have been developed for healthcare professionals to identify victims of human trafficking. The aim of these recommendations was to facilitate the ability of healthcare personnel to recognize potential victims of human trafficking in their daily work and beyond providing necessary medical assistance to offer these individuals the opportunity to seek help to escape their current situation. The developed recommendations have been distributed to various healthcare institutions and professional associations in the healthcare sector for use in their future work.*

*Since Latvia doesn't have any case-law, the answer is no. The only thing is, of course, that it is mentioned in various human trafficking prevention trainings that one of the forms of human trafficking is the removal of organs, however, as mentioned above there is no cases conducted in Latvia.*

*NFP on illicit transplantation – Vadims Suhorukovs, MD, PhD, certified transplantologist CoE CD-P-TO expert – Janis Jušinskis, MD, PhD, certified transplantologist.*

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

*Law On the Protection of the Body of Deceased Human Beings and the Use of Human Tissues and Organs in Medicine stipulates that use of tissues and organs from both living and deceased human bodies serve the advancement of medicine and medical research and have a non-profit nature. Any retrieval of tissues and organs from living or deceased individuals occurs strictly in compliance with expressed prohibitions or permissions and the selection, dispatch and use of these tissues and organs as a commercial transaction are prohibited. In 2022, the Office of the Ombudsman implemented the campaign, as part of it, one of the stories was devoted to organ harvesting.*

*All medical students are informed during the lecture and lessons on transplantation basics; medical workers are informed through the lectures and professional associations; society is informed through the mass-media campaigns.*

- e. 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**);

*Advertising or any dissemination of information with the intent to gain financial benefit or equivalent advantage by offering living or deceased human tissues or organs or expressing interest in obtaining living or deceased human tissues or organs is prohibited. Only informational activities to promote public understanding of the necessity and significance of human body, tissue, and organ donation are permitted.*

*Advertisement of the need for, or availability of human organs, with a view to offering or seeking financial gain and/or comparable advantage is prohibited by the law; Health Inspectorate is responsible to suspend any such advertisement, PSCUH professionals, involved in the transplantation work, lawyers and communication dept specialists also actively participate in collecting information and suspending such type of advertisement*

#### **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)**).

*NFP on illicit transplantation – Vadims Suhorukovs, MD, PhD, certified transplantologist; CoE CD-P-TO expert – Janis Jušinskis, MD, PhD, certified transplantologist; National Transplantation Coordination Service – Aleksandrs Malcevs, MD, PhD, certified transplantologist.*

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

*Serious and Serial Organised Crimes Combating Department of the Central Criminal Police Department of the State Police.*

*Also info@zva.gov.lv, vadims.suhorukovs@stradini.lv; janis.jusinskis@stradini.lv*

## 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.

*Criminal liability for the actions referred to in the Convention occurs when the procedure for performing organ transplantation established by OL is violated. The Law prescribes the procedures by which the tissues and cells and organs of living or deceased human beings may be used for scientific research and study purposes, transplantation, manufacture of medicinal preparations and bioprotheses. Article 13 of the OL states that removal of tissues and organs from a living donor shall be possible only upon his or her written consent, allowing a minimum risk to the health of the donor and notifying the donor of the purpose, nature, consequences, and risk of the respective intervention. Only tissues with the capacity to restore may be taken from a living donor. Removal of one kidney for the purposes of transplantation shall be permissible in exceptional cases. Article 18 of the OL states that removal and use of tissues and organs from the body of a living and deceased human being shall serve for medicine and the development of medicine and it shall be profitless by nature. Any removal of tissues and organs from the body of a living or deceased human being shall be done by strictly respecting the expressed prohibition or permission, and the selection, sending, and use of these tissues and organs as a commercial transaction is prohibited.*

*If these or other articles or provisions of the Law on Organs, which regulate the use of human tissues and organs in medicine, are not observed, then the person is held criminally liable for an intentional offense according to the following articles of the Criminal Law and the signs of the relevant composition.*

#### **Section 139. Illegal Removal of Tissue and Organs from a Human Being and Use Thereof**

*(1) For a person who commits illegal removal of tissue or organs from a deceased human being or uses them for medical or any other purposes, the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.*

*(2) For a person who commits illegal removal of tissue or organs from a living human being or uses them for medical or any other purposes, the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.*

*(3) For a person who commits the acts provided for in Paragraphs one or two of this Section, if they have been committed for the purpose of acquiring property or if they have been committed by a group of persons, the applicable punishment is the deprivation of liberty for a period of up to seven years.*

*(4) For a person who commits the acts provided for in Paragraphs one or two of this Section, if they have been committed by a medical practitioner or if they have been committed by an organised group,*

*the applicable punishment is the deprivation of liberty for a period of up to ten years, with deprivation of the right to engage in the practice of medical treatment for a period of up to five years.*

**Section 139.<sup>1</sup> Recruitment of a Donor and Recipient of Tissue and Organs from a Human Being**

*(1) For a person who commits recruitment of a donor or recipient for illegal removal or transplantation of tissue or organs from a living human being, the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or probationary supervision, or community service, or fine.*

*(2) For the commission of the same acts, if they have been committed for the purpose of acquiring property or if they have been committed by a group of persons, or if they have been committed by a medical practitioner, the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.*

*Likewise, the Criminal Law provides for responsibility for human trafficking because exploitation in the context of the concept of human trafficking is also sending a person for organ removal, however, in this case only donor recruitment takes place, as well as a person is recruited for human trafficking using violence, threats, abduction by deception, using a person's dependence on the perpetrator or his state of vulnerability or helplessness. If these actions are not detected (i.e. the person is not particularly vulnerable, is not dependent on the perpetrator, is not in a state of helplessness, nor is violence, threats or false abduction used against him), then the offense is qualified according to the above-mentioned Article 139.<sup>1</sup> of the Criminal Law.*

**Section 154.<sup>1</sup> Human Trafficking**

*(1) For a person who commits human trafficking, the applicable punishment is the deprivation of liberty for a period of up to eight years, with or without confiscation of property.*

*(2) For a person who commits human trafficking if it has been committed against a minor, or if it has been committed by a group of persons according to a prior agreement, the applicable punishment is the deprivation of liberty for a period of three and up to twelve years, with or without confiscation of property and with or without probationary supervision for a period of up to three years.*

*(3) For a person who commits human trafficking if it has endangered the life of a victim or serious consequences have been caused thereby, or it has been committed involving particular cruelty or against an underaged person, or it has been committed by an organised group, the applicable punishment is the deprivation of liberty for a period of five and up to fifteen years, with or without confiscation of property and with or without probationary supervision for a period of up to three years.*

## **Section 154.<sup>2</sup> Meaning of Human Trafficking**

(1) *Human trafficking is the recruitment, transportation, transfer, concealment, accommodation or reception of persons for the purpose of exploitation, committed by using violence or threats or by means of deceit, or by taking advantage of the dependence of the person on the offender or of his or her state of vulnerability or helplessness, or by the giving or obtaining of material benefits or benefits of another nature in order to procure the consent of such person, upon which the victim is dependent.*

(2) *The recruitment, transportation, transfer, concealment, accommodation or reception of a minor for the purpose of exploitation shall be recognised as human trafficking also in such cases, if it is not connected with the use of any of the means referred to in the Paragraph one of this Section.*

(3) *Within the meaning of this Section, exploitation is the involvement of a person in prostitution or in other kinds of sexual exploitation, the compulsion of a person to perform labour, to provide services or to commit criminal offences, the holding of a person in slavery or other similar forms thereof (debt slavery, serfdom or compulsory transfer of a person into dependence upon another person), and the holding a person in servitude or also the illegal removal of a person's tissues or organs.*

(4) *Within the meaning of this Section state of vulnerability means using the circumstances when a person does not have another actual or acceptable choice, only to submit to exploitation.*

## **Section 125. Intentional Serious Bodily Injury**

(1) *For intentional infliction of serious bodily injury, the applicable punishment is the deprivation of liberty for a period of up to seven years, with or without probationary supervision for a period of up to three years.*

(2) *For the commission of the same acts, if:*

1) *their commission is related to the victim or his or her relative having performed his or her official or professional duty or having participated in the prevention or interruption of a criminal or other unlawful offence, or having provided testimony in court or at a pre-trial criminal proceedings;*

2) *they have been committed against two or several persons;*

3) *they have been committed in a way dangerous to the life or health of several persons;*

4) *they have been in the nature of torment or torture;*

5) *they have been committed by a group of persons;*

6) -

7) *they have been committed by a person who has been confined to a place to be held in short-term detention or in prison;*

8) *they have been committed against a person in the state of helplessness;*

9) *they have been committed against a person to whom the perpetrator of a criminal offence is related in the first or second degree of kinship, or against the spouse or former spouse, or against a person with whom the perpetrator of a criminal offence is*

*or has been in continuous intimate relationships, or against a person with whom the perpetrator of a criminal offence has a joint (single) household, the applicable punishment is the deprivation of liberty for a period of two and up to ten years, with or without probationary supervision for a period of up to three years.*

*(3) For a person who commits intentional infliction of serious bodily injury which, as a result of the negligence of the offender, has been the cause of the death of the victim, or who commits intentional infliction of serious bodily injury if it is committed by an organised group, the applicable punishment is the deprivation of liberty for a period of three years and up to fifteen years, with or without confiscation of property and with or without probationary supervision for a period of up to three years.*

### **Section 116. Murder**

*For a person who commits intentional unlawful homicide (murder) of another person, the applicable punishment is life imprisonment or deprivation of liberty for a period of five years and up to twenty years and with probationary supervision for a period of up to three years.*

### **Section 117. Murder Committed in Aggravating Circumstances**

*For a person who commits murder, if:*

- 1) a woman is murdered, the offender knowing her to be pregnant;*
- 2) a person is murdered, the offender knowing that the person is in a state of helplessness;*
- 3) it is committed in a way dangerous to the life of several persons;*
- 4) it is committed with particular cruelty;*
- 5) the corpse is defiled thereafter;*
- 6) it is related to robbery;*
- 7) it is related to rape;*
- 8) it is committed with intent to conceal another criminal offence or to facilitate its commission;*
- 9) it is committed for the purpose of acquiring property;*
- 10) it is committed by a group of persons;*
- 11) it is committed by a person who has been confined to a place to be held in temporary detention or in prison;*
- 12) a minor is murdered,*

*the applicable punishment is life imprisonment or deprivation of liberty for a period of ten years and up to twenty years and probationary supervision for a period of up to three years, with or without confiscation of property.*

### **Section 118. Murder Committed in Especially Aggravating Circumstances**

*For a person who commits murder:*

- 1) related to the victim or his or her relative having performed his or her official or professional duty or having participated in the prevention or interruption of a criminal or other unlawful offence, or having provided testimony in court or at a pre-trial criminal proceedings;*
- 2) if two or several persons have been murdered;*

3) -

4) if it is committed by a person serving a term of life imprisonment;

5) if it has been committed by an organised group,

*the applicable punishment is life imprisonment or deprivation of liberty for a period of fifteen years and up to twenty years and probationary supervision for a period of up to three years, with or without confiscation of property.*

### **Section 123. Homicide through Negligence**

*(1) For a person who commits unlawful homicide through negligence, the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service.*

*(2) For a person who commits unlawful homicide through negligence, if two or several persons have been killed, or the homicide has been committed in the course of acting with firearms or explosive substances, or in another generally dangerous way, the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service.*

### **Section 228. Desecration of Graves and Corpses**

*(1) For a person who commits desecration of graves, funerary urns or interred or uninterred corpses, the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or probationary supervision, or community service, or fine.*

*(2) For the commission of the same acts, if they have been committed by a group of persons according to a prior agreement, the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.*

*(3) For a person who commits the acts provided for in Paragraphs one and two of this Section, if they are related to stealing of a monument or funerary urn, or other objects placed on or in a grave or at a funerary urn, the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property.*

### **Section 198. Unauthorised Receipt of Benefits**

*(1) For a person who unlawfully accepts material values, property or benefits of other nature, or offers thereof, if accepted by an employee of an undertaking (company) or organisation himself or herself or through an intermediary, or a person who, on the basis of the law or a lawful transaction, is authorised to conduct the matters of another person, for performing or failing to perform some act, using his or her authority, irrespective of whether the material values, property or benefits of other nature accepted are intended for this person or any other person,*

*the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.*

*(2) For a person who commits the acts provided for in Paragraph one of this Section, if they have been committed on a large scale, or they have been committed by a group of persons according to a prior agreement, or where material values, property or benefits of other nature have been requested,*

*the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property.*

*(3) For a person who unlawfully accepts material values, property or benefits of other nature, or offers thereof, if accepted by a responsible employee of an undertaking (company) or organisation himself or herself or through an intermediary, or a person similarly authorised by an undertaking (company) or organisation, or a person who, on the basis of the law or a lawful transaction, is authorised to resolve disputes or take binding decisions but who is not a public official, for performing or failing to perform some act, using his or her authority, irrespective of whether the accepted material values, property or benefits of other nature are intended for this person or any other person,*

*the applicable punishment is the deprivation of liberty for a period of up to four years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property and with deprivation of the right to take up a specific office for a period of up to three years.*

*(4) For a person who commits the acts provided for in Paragraph three of this Section, if have been committed on a large scale, or they have been committed by a group of persons according to a prior agreement, or they are related to a demand for material values, property or benefits of other nature,*

*the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property and with deprivation of the right to take up a specific office for a period of two years and up to five years.*

### **Section 199. Commercial Bribery**

*(1) For a person who commits offering or giving of material values, property or benefits of other nature in person or through intermediaries to an employee of an undertaking (company) or organisation, or a person who, on the basis of the law or a lawful transaction, is authorised to conduct affairs of another person, or a responsible employee of an undertaking (company) or organisation, or a person similarly authorised by an undertaking (company) or organisation, or a person who, on the basis of the law or lawful transaction, is authorised to settle disputes so that he or she, using his or her authority, would perform or fail to perform some act, irrespective of whether the material values, property or benefits of other nature are intended for this person or any other person,*

*the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.*

*(2) For the commission of the same acts, if they have been committed on a large scale,*

*the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with deprivation of the right to take up a specific office for a period of up to three years.*

### **Section 320. Accepting Bribes**

*(1) For requesting, accepting, extorting a bribe, that is, material values, properties or benefits of other nature, committed by a public official personally or through an intermediary for an already performed lawful or illegal act or permitted failure to act by using his or her official position, irrespective of whether the requested, extorted, accepted or offered bribe was meant for this public official or any other person,*

*the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with deprivation of the right to engage in specific employment or the right to take up a specific office for a period of up to two years.*

*(2) For accepting a bribe or the offer of a bribe, or for requesting and extorting a bribe, committed by a public official personally or through an intermediary before the commission or omission of a lawful or illegal act by using his or her official position, irrespective of whether the requested, extorted, accepted or offered bribe was meant for this public official or any other person,*

*the applicable punishment is the deprivation of liberty for a period of up to eight years, with or without confiscation of property and with deprivation of the right to engage in specific employment or to take up a specific office for a period of up to five years.*

*(3) For a person who commits the acts provided for in Paragraph one or two of this Section, if they have been committed on a large scale or if they have been committed by a group of persons according to a prior agreement, or if a bribe has been accepted following the request thereof,*

*the applicable punishment is the deprivation of liberty for a period of two years and up to ten years, with or without confiscation of property and with deprivation of the right to engage in specific employment or to take up a specific office for a period of up to five years.*

*(4) For a person who commits the acts provided for in Paragraphs one or two of this Section, if they have been committed by an organised group or a public official holding a responsible position, or if a bribe has been accepted following its extortion,*

*the applicable punishment is the deprivation of liberty for a period of three years and up to eleven years, with or without confiscation of property and with deprivation of the right to engage in specific employment or to take up a specific office for a period of up to five years and with probationary supervision for a period of up to three years.*

### **Section 321. Misappropriation of a Bribe**

*(1) For a person who commits misappropriation of a bribe which a person has received in order to provide to a public official, or which he or she has accepted, pretending to be a public official,*

*the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property.*

*(2) For a person who commits misappropriation of a bribe which a public official has received in order to provide it to another public official, or which he or she has accepted claiming to be another public official,*

*the applicable punishment is the deprivation of liberty for a period of up to four years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property.*

*(3) For the criminal offence provided for in Paragraphs one or two of this Section, if it has been committed by a group of persons according to a prior agreement or if it has been committed on a large scale,*

*the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property.*

*(4) For the criminal offence provided for in Paragraphs one or two of this Section, if it has been committed by an organised group, or for the criminal offence provided for in Paragraph two of this Section, if it has been committed by a public official holding a responsible position,*

*the applicable punishment is the deprivation of liberty for a period of up to seven years, with or without confiscation of property and with or without probationary supervision for a period of up to three years.*

### **Section 323. Giving of Bribes**

*(1) For a person who commits giving or offering of bribes, that is, material values, properties or benefits of other nature, or promising the bribe if requested, in person or through intermediaries to a public official in order that he or she, using his or her official position, would perform or fail to perform some act, irrespective of whether the bribe given, offered or promised is for this public official or for any other person,*

*the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.*

*(2) For the commission of the same acts, if they have been committed on a large scale or if they have been committed by a public official, or if they have been committed by a group of persons according to a prior agreement,*

*the applicable punishment is the deprivation of liberty for a period of up to eight years, with or without confiscation of property and with deprivation of the right to engage in specific employment or to take up a specific office for a period of up to five years.*

*(3) For a person who commits the acts provided for in Paragraph one of this Section, if they have been committed by an organised group,*

*the applicable punishment is the deprivation of liberty for a period of two years and up to ten years, with or without confiscation of property, with deprivation of the right to engage in specific employment or to take up a specific office for a period of up to five years and with probationary supervision for a period of up to three years.*

### **Section 326.<sup>1</sup> Trading with Influence**

*(1) For a person who commits, in person or through an intermediary, offering or giving of material values, properties or benefits of other nature to any person in order that he or she, using his or her official position, professional or social position, would unlawfully influence the activities of a public official, or encourage another person to unlawfully influence the activities of a public official, irrespective of whether the material values, properties or benefits of other nature are intended for this person or any other person, if the elements of the crime provided for in Section 323 are not present,*

*the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.*

*(2) For a person who commits accepting an offer of material values, properties or benefits of other nature for himself or herself or any other person or requesting of material values, properties or benefits of other nature for himself or herself, or any other person, in order that he or she, using his or her official position, professional or social position, would unlawfully influence the activities of a public official, or encourage any other person to influence the activities or taking of decisions of a public official, if the elements of the crime provided for in Sections 198 and 320 of this Law are not present,*

*the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with deprivation of the right to engage in specific employment or the right to take up a specific office for a period of up to five years.*

### **Section 326.<sup>2</sup> Unlawful Requesting and Receiving of Benefits**

*(1) For a person who commits unlawful receiving of material values, properties or benefits of other nature, their offers, if committed by an employee of a State or local government institution, who is not a public official, or a similar person who is authorised by the State institution, himself or herself or through an intermediary, for performing or failing to perform some act, using his or her authority, irrespective of whether the material values, properties or benefits of other nature received are intended for this person or any other person,*

*the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.*

*(2) For the commission of the same acts, if they have been committed on a large scale or if they have been committed by a group of persons according to prior agreement, or if they are related to requesting or extortion of material values, properties or benefits of other nature, the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with deprivation of the right to engage in specific employment or the right to take up a specific office for a period of up to five years.*

### **Section 326.<sup>3</sup> Unlawful Giving of Benefits**

*(1) For a person who commits offering or giving of material values, properties or benefits of other nature to an employee of a State or local government institution, who is not a public*

*official, or a similar person who is authorised by the State institution, himself or herself or through an intermediary, for performing some unlawful act, using his or her authority, irrespective of whether the material values, properties or benefits of other nature are intended for this or any other person,*

*the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or probationary supervision, or community service, or fine.*

*(2) For the commission of the same acts, if they have been committed on a large scale, the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.*

## **Section 20. Joint Participation**

*(1) An act or failure to act committed knowingly by which a person (joint participant) has jointly with another person (perpetrator) participated in the commission of an intentional criminal offence, but he himself or she herself has not been the direct perpetrator of it, shall be considered to be joint participation. Organisers, instigators, and abettors are joint participants in a criminal offence.*

*(2) A person who has organised or directed the commission of a criminal offence shall be considered to be an organiser.*

*(3) A person who has encouraged another person to commit a criminal offence shall be considered to be an instigator.*

*(4) A person who has knowingly promoted the commission of a criminal offence, providing advice, direction, or means, or removing impediments for the commission of such, as well as a person who has previously promised to conceal the perpetrator or joint participant, the instrumentalities or means for committing the criminal offence, trail of the criminal offence or the objects acquired by criminal means or has previously promised to acquire or to dispose these objects, shall be considered to be an abettor.*

*(5) A joint participant shall be held liable in accordance with the same Section of this Law which provides for the liability of the perpetrator.*

*(6) Individual constituent elements of a criminal offence which refer to a perpetrator or joint participant do not affect the liability of other participants or joint participants.*

*(7) If a joint participant has not had the knowledge of a criminal offence committed by a perpetrator or other joint participants, he or she shall not be held criminally liable for such.*

*(8) If the perpetrator has not completed the offence for reasons independent of his or her will, the joint participants are liable for joint participation in the relevant attempted offence. If the perpetrator has not commenced commission of the offence, the joint participants are liable for preparation for the relevant offence.*

*(9) Voluntary withdrawal, by an organiser or instigator from completing of commission of a criminal offence shall be considered as such only in cases when he or she, in due time, has*

done everything possible to prevent the commission with his or her joint participation of the contemplated criminal offence and this offence has not been committed. An abettor shall not be held criminally liable if he or she has voluntarily refused to provide the promised assistance before commencement of the criminal offence.

### **Section 15. Completed and Uncompleted Criminal Offences**

(1) A criminal offence shall be considered completed if it has all the constituent elements of a criminal offence set out in this Law.

(2) Preparation for a crime and an attempted crime are uncompleted criminal offences.

(3) The locating of, or adaptation of, means or instrumentalities, or the intentional creation of circumstances conducive for the commission of an intentional offence, shall be considered to be preparation for a crime if, in addition, it has not been continued for reasons independent of the will of the guilty party. Criminal liability shall apply only for preparation for serious or especially serious crimes.

(4) A conscious act (failure to act) which is directly dedicated to intentional commission of a crime, shall be considered to be an attempted crime if the crime has not been completed for reasons independent of the will of the guilty party.

(5) Liability for preparation for a crime or an attempted crime shall apply in accordance with the same Section of this Law as sets out liability for a specific offence.

(6) A person shall not be held criminally liable for an attempt to commit a criminal violation.

- b. Do the offences in your internal laws require intentional conduct? If no, please provide information.

*The Criminal Law of Latvia provides such a form of guilt as an intentional criminal offense. In such a case, it is recognized that the person committed such an offense with direct or indirect intent. The second part of Article 9 of the Criminal Law stipulates that a criminal offence shall be considered to have been committed with a direct intent if the person has been aware of the harm caused by his or her act or failure to act and has knowingly committed or allowed it or also been aware of the harm caused by his or her act or failure to act, foreseen the harmful consequences of the offence and has desired them. A criminal offence shall be considered to have been committed with an indirect intent if the person has been aware of the harm caused by his or her act or failure to act, foreseen the harmful consequences of the offence and, although has not desired such consequences, has knowingly allowed them to result.*

*The criminal offense referred to in Article 139 of the Criminal Law is objectively characterized by non-compliance with and violation of the provisions of the Law on Organs. The composition of the criminal offense is formal - it is completed at the moment when the illegal removal or use of a human tissue or organ is carried out.*

*The criminal offense referred to in Article 139 of the Criminal Law is an intentional offence, which is characterized by a direct intention, that is, to deliberately violate and disregard the procedure established by the Law on Organs. Regarding the illegal use of tissues or organs, it should be noted that persons who, knowing the illegality of these actions, knowingly allowed the transplantation of illegally removed tissues or organs into the body, are also held accountable for their participation in the criminal offense referred to in Article 139 of the Criminal Law.*

*The criminal offense referred to in Article 139.<sup>1</sup> of the Criminal Law is an intentional offense characterized by a direct intention, namely, to deliberately recruit tissue or organ donors or recipients for the illegal removal or implantation of organs.*

*Article 125 of the Criminal Law provides for liability for intentional serious bodily injury. An offense is considered to be intentional, which can be done with either direct or indirect intent. Bodily injuries are qualified as committed with direct intent, if the perpetrator was aware of the harm of his actions or inactions, predicted the infliction of specific severity (severe) bodily injuries, wanted them to occur, and they were actually inflicted. On the other hand, severe bodily harm is qualified as caused with indirect intent, if the perpetrator was aware of the harmfulness of his action or inaction, anticipated the infliction of bodily harm of a specific degree of severity and deliberately allowed these consequences to occur.*

*Likewise, a person can be prosecuted for murder (Article 116 of the Criminal Law), murder committed in aggravating circumstances (Article 117 of the Criminal Law) and murder committed in especially aggravating circumstances (Article 118 of the Criminal Law). Murder, by definition, is characterized as the intentional unlawful killing of another person, therefore the offense is considered intentional, which can be committed with both direct and indirect intent. Murder is committed with direct intent, if the perpetrator's actions show that he was aware of the harmfulness of his action or inaction, foresaw the occurrence of death, wanted it, and as a result of his offense, the death of the victim occurred. On the other hand, murder is committed with indirect intent, if the guilty person was aware of the harmfulness of his action or inaction, anticipated that the death of the victim could occur as a result of his offense, and, although he did not want these consequences, nevertheless deliberately allowed death to occur or was indifferent to it.*

*With regard to murder in aggravated and especially aggravated circumstances, it must be additionally established that the perpetrator was aware that he was using such a method of killing or committed it under such circumstances as provided for by the composition of the relevant article of the Criminal Law.*

*The perpetrator, by committing the acts provided for in the convention, may also unlawfully kill the victim due to negligence. For example, without observing the rules of caution, the perpetrator has foreseen the abstract possibility of the occurrence of the consequences of his action or inaction in similar circumstances, but lightly believed that such consequences would not occur in the specific situation (criminal self-reliance). Or the guilty person did not foresee the possibility of death, although according to the specific circumstances of the offense he should and could have foreseen the consequences of his actions (criminal neglect).*

*Likewise, under specific circumstances, the perpetrator may be held criminally liable for the committed actions according to Article 228 of the Criminal Law for desecration of a grave, funerary urns or interred or uninterred corpses. Such criminal acts can only be committed with direct intent. The culprit is aware that with his actions he is desecrating a grave, funerary urns or interred or uninterred corpses, and deliberately does so. If the motive of the offense is*

greed, then in relation to the desecration of the grave and the corpse, an indirect intention is also allowed.

The requirements of paragraphs 2 and 3 of Article 7 of the Convention are included in several articles of the Criminal Law, such as unauthorised receipt of benefits, commercial bribery, accepting bribes, misappropriation of a bribe, giving of bribes, trading with influence, unlawful requesting and receiving of benefits, unlawful giving of benefits.

- Article 198 of the Criminal Law provides for criminal liability for the unauthorised receipt of benefits, that is, for a person who unlawfully accepts material values, property or benefits of other nature, or offers thereof, if accepted by an employee of an undertaking (company) or organisation himself or herself or through an intermediary, or a person who, on the basis of the law or a lawful transaction, is authorised to conduct the matters of another person, for performing or failing to perform some act, using his or her authority, irrespective of whether the material values, property or benefits of other nature accepted are intended for this person or any other person. The paragraph 3 of this Article provides for a harsher sanction for a person who unlawfully accepts material values, property or benefits of other nature, or offers thereof, if accepted by a responsible employee of an undertaking (company) or organisation himself or herself or through an intermediary, or a person similarly authorised by an undertaking (company) or organisation, or a person who, on the basis of the law or a lawful transaction, is authorised to resolve disputes or take binding decisions but who is not a public official, for performing or failing to perform some act, using his or her authority, irrespective of whether the accepted material values, property or benefits of other nature are intended for this person or any other person. Unauthorized receipt of benefits is an intentional crime, characterized by direct intent, because the guilty person is aware of the harmfulness of his actions - material value, benefits of a material or other nature or acceptance of their offer - and consciously performs them.
- Article 199 of the Criminal Law provides for criminal liability for commercial bribery, that is, for a person who commits offering or giving of material values, property or benefits of other nature in person or through intermediaries to an employee of an undertaking (company) or organisation, or a person who, on the basis of the law or a lawful transaction, is authorised to conduct affairs of another person, or a responsible employee of an undertaking (company) or organisation, or a person similarly authorised by an undertaking (company) or organisation, or a person who, on the basis of the law or lawful transaction, is authorised to settle disputes so that he or she, using his or her authority, would perform or fail to perform some act, irrespective of whether the material values, property or benefits of other nature are intended for this person or any other person. It is an intentional crime, characterized by direct intent, because the guilty person transfers or offers a relevant benefit to a person with the purpose of getting him to do or not do an act in the interest of the guilty person or any other person, using his authority.
- Article 320 of the Criminal Law provides for criminal liability for accepting bribes, that is, for requesting, accepting, extorting a bribe, that is, material values, properties or benefits of other nature, committed by a public official personally or through an intermediary for an already performed lawful or illegal act or permitted failure to act by using his or her official position, irrespective of whether the requested, extorted, accepted or offered bribe was meant for this public official or any other person. As well as for accepting a bribe or the offer of a bribe, or for requesting and extorting a bribe,

*committed by a public official personally or through an intermediary before the commission or omission of a lawful or illegal act by using his or her official position, irrespective of whether the requested, extorted, accepted, or offered bribe was meant for this public official or any other person. Accepting bribes is an intentional crime, characterized by direct intent, because the public official is aware of the harmfulness of bribery and deliberately commits it.*

- *Article 321 of the Criminal Law provides for criminal liability for misappropriation of a bribe, that is, for a person who commits misappropriation of a bribe which a person has received in order to provide to a public official, or which he or she has accepted, pretending to be a public official. The crime is characterized only by direct intent – the guilty person is aware that he or she is embezzling a bribe and wants to get the object of the bribe meant for another person.*
- *Article 323 of the Criminal Law provides for criminal liability for giving of bribes, that is, for a person who commits giving or offering of bribes, that is, material values, properties or benefits of other nature, or promising the bribe if requested, in person or through intermediaries to a public official in order that he or she, using his or her official position, would perform or fail to perform some act, irrespective of whether the bribe given, offered or promised is for this public official or for any other person. Giving of bribes can only be done with direct intent, as the guilty person is aware that he or she is offering, promising or giving a bribe to a public official personally or through an intermediary, and it is done knowingly with the aim of getting the public official to do or not do, using his official position any activity in the interest of the briber himself or another person.*
- *Article 326.<sup>1</sup> of the Criminal Law provides for criminal liability for trading with influence, that is, for a person who commits, in person or through an intermediary, offering or giving of material values, properties or benefits of other nature to any person in order that he or she, using his or her official position, professional or social position, would unlawfully influence the activities of a public official, or encourage another person to unlawfully influence the activities of a public official, irrespective of whether the material values, properties or benefits of other nature are intended for this person or any other person, if the elements of the crime provided for in Section 323 are not present. As well as for a person who commits accepting an offer of material values, properties or benefits of other nature for himself or herself or any other person or requesting of material values, properties or benefits of other nature for himself or herself, or any other person, in order that he or she, using his or her official position, professional or social position, would unlawfully influence the activities of a public official, or encourage any other person to influence the activities or taking of decisions of a public official, if the elements of the crime provided for in Sections 198 and 320 of the Criminal Law are not present. Trading with influence can only be done with direct intent, as the criminal activities have a special purpose - to achieve illegal influence on the activities of a public official.*
- *Article 326.<sup>2</sup> of the Criminal Law provides for criminal liability for unlawful requesting and receiving of benefits, that is, for a person who commits unlawful receiving of material values, properties or benefits of other nature, their offers, if committed by an employee of a State or local government institution, who is not a public official, or a similar person who is authorised by the State institution, himself or herself or through an intermediary, for performing or failing to perform some act, using his or her authority,*

*irrespective of whether the material values, properties or benefits of other nature received are intended for this person or any other person. The crime can only be committed with direct intent, because the guilty person is aware of the value of the material, the benefit of a material or other nature or the harmfulness of accepting their offer and does it deliberately.*

- *Article 326.<sup>3</sup> of the Criminal Law provides for criminal liability for unlawful giving of benefits, that is, for a person who commits offering or giving of material values, properties or benefits of other nature to an employee of a State or local government institution, who is not a public official, or a similar person who is authorised by the State institution, himself or herself or through an intermediary, for performing some unlawful act, using his or her authority, irrespective of whether the material values, properties or benefits of other nature are intended for this or any other person. The criminal offense can only be committed with direct intent, because the guilty person is aware of the harmfulness of his action and carries it out deliberately. In addition, the offense is committed with the aim of causing an employee of a state or local government institution to commit an illegal act in the interests of the benefactor or any other person.*

*In Latvia, joint participants in a criminal offence (organisers, instigators, and abettors) are held criminally liable in accordance with the same article of the Criminal Law, which provides criminal liability for the perpetrator or for a completed criminal offense, but participation is defined and regulated in Article 20 of the Criminal Law. Already by definition, the paragraph 1 of the mentioned article states that an act or failure to act committed knowingly by which a person (joint participant) has jointly with another person (perpetrator) participated in the commission of an intentional criminal offence, but he himself or she herself has not been the direct perpetrator of it, shall be considered to be joint participation. A paragraph 7 of the article states that if a joint participant has not had the knowledge of a criminal offence committed by a perpetrator or other joint participants, he or she shall not be held criminally liable for such. Thus, the joint participants are also aware of the harmfulness of their actions or inactions and the fact that there are other persons acting without them.*

*Article 15 of the Criminal Law defines what is to be considered as completed and uncompleted criminal offences. The locating of, or adaptation of, means or instrumentalities, or the intentional creation of circumstances conducive for the commission of an intentional offence, shall be considered to be preparation for a crime if, in addition, it has not been continued for reasons independent of the will of the guilty party. A conscious act (failure to act) which is directly dedicated to intentional commission of a crime, shall be considered to be an attempted crime if the crime has not been completed for reasons independent of the will of the guilty party. Thus, in order to hold a person criminally liable for the preparation of a crime or an attempt to commit a crime, it is necessary to establish the person's intentional, conscious actions aimed at committing an intentional crime, where the person is aware of the harmfulness of these actions. Liability for preparation for a crime or an attempted crime shall apply in accordance with the same Section of Criminal Law as sets out liability for a specific offence.*

- 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;

*For the mentioned criminal activities (trafficking of human organs), criminal liability is provided for in the Latvian legal system according to the articles of the Criminal Law mentioned above (point a) of question 5 of the questionnaire).*

- 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.

*The above-mentioned articles of the Criminal Law mostly do not provide for a special subject (donor and/or recipient) as a sign of composition. A natural person who has reached the age of fourteen by the day of committing a criminal offense shall be held criminally liable. A special subject may also be provided for certain offenses, for example, only a public official (for example, a medical practitioner) who accepted or requested a bribe may be held criminally liable for bribery. But the Criminal Law does not separately distinguish whether the criminal acts were committed by the donor or the recipient. Upon establishing the objective aspects of the criminal offense and other elements of the composition, the person is held criminally liable.*

**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).

*Article 2 of the Criminal Law generally states that the liability of a person who has committed a criminal offence in the territory of Latvia shall be determined in accordance with the Criminal Law. If a foreign diplomatic representative, or other person who, in accordance with the laws in force or international agreements binding upon the Republic of Latvia, is not subject to the jurisdiction of the Republic of Latvia, has committed a criminal offence in the territory of Latvia, the issue of this person being held criminally liable shall be decided by diplomatic procedures or in accordance with a mutual agreement of the states.*

*Article 3 of the Criminal Law states applicability of the Criminal Law to aircrafts, and sea and river vessels outside the territory of Latvia, that is, a person who has committed a criminal offence outside the territory of Latvia, on an aircraft, or a sea or river vessel or other floating means of conveyance, if this means of conveyance is registered in the Republic of Latvia and if it is not provided otherwise in the international agreements binding upon the Republic of Latvia, shall be held liable in accordance with the Criminal Law.*

*Article 4 of the Criminal Law states applicability of the Criminal Law outside the territory of Latvia. Latvian citizens, non-citizens, and foreigners who have a permanent residence permit in the Republic of Latvia, shall be held liable, in accordance with the Criminal Law, in the territory of Latvia for an offence committed in the territory of another state or outside the territory of any state irrespective of whether it has been recognised as criminal and punishable in the territory of commitment.*

*For an offence committed by a natural person acting in the interests of a legal person registered in the Republic of Latvia, for the benefit of the person or as a result of insufficient supervision or control thereof in the territory of another state or outside the territory of any state irrespective of whether it has been recognised as criminal and punishable in the territory of commitment the legal person may be applied the coercive measures provided for in this Law.*

*Soldiers of the Republic of Latvia who are located outside the territory of Latvia shall be held liable for criminal offences in accordance with the Criminal Law, unless it is otherwise provided for in international agreements binding upon the Republic of Latvia.*

*Foreigners who do not have permanent residence permits in the Republic of Latvia and **who have committed serious or especially serious crimes in the territory of another state which have been directed against the Republic of Latvia or against the interests of its inhabitants**, shall be held criminally liable in accordance with the Criminal Law irrespective of the laws of the state in which the crime has been committed, if they have not been held criminally liable or committed to stand trial in accordance with the laws of the state where the crime was committed.*

*Foreigners who do not have a permanent residence permit in the Republic of Latvia and who have committed a criminal offence in the territory of another state or outside the territory of any state, in the cases provided for in international agreements binding upon the Republic of Latvia, irrespective of the laws of the state in which the offence has been committed, shall be held liable in accordance with the Criminal Law, if they have not been held criminally liable for such offence or committed to stand trial in the territory of another state.*

*The first paragraph of Article 7 of the Criminal Procedure Law generally states that criminal proceedings shall be conducted in the interests of society regardless of the will of the person upon whom the harm was inflicted, if this Law does not specify otherwise. The second*

*paragraph of the article exhaustively defines the cases for which criminal proceedings for the intended offense are initiated, if the application of the person who has been harmed is received. These offenses do not cover the offenses regulated by the provisions of the Convention. Likewise, the criminal process in Latvian law is characterized by a mandatory nature of criminal proceedings, that is, the submission of information indicating the committing of a possible criminal offence to an investigating institution, Office of the Prosecutor, or court, or the acquisition of such information at an institution responsible for the progress of criminal proceedings, is a reason for initiating criminal proceedings. It is also necessary to establish the grounds for the initiation of criminal proceedings, that is, criminal proceedings may be initiated, if the actual possibility exists that a criminal offence has taken place. However, the institution responsible for the progress of criminal proceedings will not evaluate the usefulness of initiating criminal proceedings or other considerations.*

*With regard to international co-operation in the criminal-legal field, Latvia requests and ensures the extradition of a person for criminal prosecution, trial, or the execution of a judgment, or for the determination of compulsory measures of a medical nature, the transfer of criminal proceedings, the execution of procedural actions, the execution of a security measure not related to deprivation of liberty, the recognition and execution of a judgment, other cases provided for in international treaties.*

*Article 679.<sup>1</sup> of the Criminal Procedure Law states that if there is a justified reason to believe that criminal proceedings for the same criminal offence are taking place in another country concurrently with the criminal proceedings taking place in Latvia and sufficient confirmation has not been obtained beforehand as a result of international co-operation, the person directing the proceedings shall, with the intermediation of the competent authority, request the foreign country to provide information regarding it. Also Latvia, having received a request of a foreign country to provide information regarding whether criminal proceedings for the same criminal offence are taking place in Latvia, the competent authority shall provide information to the foreign country within the time period indicated in the request, but if a time period has not been indicated information shall be provided as soon after receipt of the request as possible.*

*The following shall be indicated in the information to a foreign country regarding whether criminal proceedings for the same criminal offence are taking place in Latvia:*

- 1) contact information of the person directing the proceedings;*
- 2) information regarding whether criminal proceedings for the same criminal offence are taking place or have taken place and whether the same person is related thereto;*
- 3) if criminal proceedings for the same criminal offence are taking place in Latvia - the criminal procedural stage and, if a final ruling has been made, the essence of the ruling.*

*The Office of the Prosecutor General shall be the competent authority in exchange of information in pre-trial proceedings, and the State Police - for the commencement of criminal prosecution. After transfer of a case to a court the Ministry of Justice shall be the competent authority for exchange of information.*

*Article 697 of the Criminal Procedure Law states reasons for a refusal to extradite a person where the second paragraph states that the extradition of a Latvian citizen shall not be admissible while in relation to an extradition request received from a member state of the European Union, a person's nationality is not a reason to refuse extradition of that person.*

*If a decision to refuse to extradite a person has been taken on the basis of the fact that the person is a citizen of Latvia, a paragraph 5 of Article 705 of the Criminal Procedure Law states*

*that a prosecutor shall transfer the extradition request to a competent investigating institution for initiating criminal proceedings. In such a case, further actions take place after taking over a criminal proceeding initiated in a foreign country in Latvia, which stipulates that a request submitted by a foreign country regarding the takeover of criminal proceedings, and the consent of Latvia to take over such criminal proceedings or a request submitted by Latvia regarding the transfer of criminal proceedings, and the consent of a foreign country to transfer such criminal proceedings, the criminal proceeding initiated in a foreign country is continued in Latvia.*

- 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.

*Paragraph 1.<sup>1</sup> of Article 4 of the Criminal Law states that for an offence committed by a natural person acting in the interests of a legal person registered in the Republic of Latvia, for the benefit of the person or as a result of insufficient supervision or control thereof in the territory of another state or outside the territory of any state irrespective of whether it has been recognised as criminal and punishable in the territory of commitment the legal person may be applied the coercive measures provided for in this Law.*

*Paragraph 3 of Article 4 of the Criminal Law states that foreigners who do not have permanent residence permits in the Republic of Latvia and who have committed serious or especially serious crimes in the territory of another state which have been directed against the Republic of Latvia or against the interests of its inhabitants, shall be held criminally liable in accordance with the Criminal Law irrespective of the laws of the state in which the crime has been committed, if they have not been held criminally liable or committed to stand trial in accordance with the laws of the state where the crime was committed.*

*Paragraph 4 of Article 4 of the Criminal Law states that foreigners who do not have a permanent residence permit in the Republic of Latvia and who have committed a criminal offence in the territory of another state or outside the territory of any state, in the cases provided for in international agreements binding upon the Republic of Latvia, irrespective of the laws of the state in which the offence has been committed, shall be held liable in accordance with the Criminal Law, if they have not been held criminally liable for such offence or committed to stand trial in the territory of another state.*

### **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.

*Article 12 of the Criminal Law states that a natural person who has committed a criminal offence acting in the interests of a legal person governed by private law, for the benefit of the person or as a result of insufficient supervision or control thereof shall be held criminally liable, but the coercive measures provided for in this Law may be applied to the legal person. The legal person is not held criminally liable, but for any criminal offences provided for in the Criminal Law, a court or in the cases provided for by the Law - a prosecutor may apply a coercive measure to a legal person governed by private law, including State or local government capital company, as well as partnership, if a natural person has committed the offence in the interests of the legal person, for the benefit of the person or as a result of*

insufficient supervision or control, acting individually or as a member of the collegial authority of the relevant legal person:

- 1) on the basis of the right to represent the legal person or act on the behalf thereof;
- 2) on the basis of the right to take a decision on behalf of the legal person;
- 3) in implementing control within the scope of 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**);

*Trafficking in human organs is a criminal offense in Latvia.*

*Article 139, Article 139.<sup>1</sup>, Article 125, Articles 116-118, Article 123 of the Criminal Law which will correspond to Article 4.1 of the Convention provides for deprivation of liberty as a punishment.*

*Article 198, Article 199, Article 320, Article 321, Article 323, Article 326.<sup>1</sup>, Article 326.<sup>2</sup>, Article 326.<sup>3</sup> of the Criminal Law provides for deprivation of liberty (corresponding to Articles 7.2 and 7.3 of the Convention).*

*Regarding participation and attempt to commit a criminal offense (Article 9 of the Convention), deprivation of liberty for attempt is applied only for Articles 125, 116-118, Articles 320 and 323 of the Criminal Law, because in the paragraph 3 of article 15 of the Criminal Law, it is determined that criminal liability arises only for preparation for serious or particularly serious crimes. On the other hand, the paragraph 5 of Article 20 of the Criminal Law stipulates that an accomplice in criminal offenses can be prosecuted in accordance with the same article of this law, which provides for the responsibility of the perpetrator.*

*For a legal person one of the following coercive measures may be specified:*

- 1) liquidation;
- 2) restriction of rights;
- 3) confiscation of property;
- 4) recovery of money.

*For a legal person one or several of the coercive measures provided for in Paragraph one of this Section may be applied. In applying liquidation, other coercive measures shall not be specified.*

*For a criminal violation, a less serious crime or a serious crime for which deprivation of liberty for a period of up to five years is provided for in the Criminal Law a prosecutor, in drawing up a penal order regarding the coercive measure, may determine the recovery of money or restriction of rights as a coercive measure to a legal person.*

**Liquidation** is the compulsory termination of activities of a legal person. A legal person shall be liquidated only in such cases, if the legal person has been especially established for the committing of a criminal offence or if a serious or especially serious crime has been committed. In liquidating a legal person, all of the existing property thereof shall be alienated without compensation to the ownership of the State.

**Restriction of rights** is the deprivation of specific rights or permits or the determination of such prohibition which prevents a legal person from exercising certain rights, receive State support or assistance, participate in a State or local government procurement procedure, to perform a specific type of activity for a period of one year and up to ten years.

**Confiscation of property** is the compulsory alienation of the property owned by a legal person to the State ownership without compensation. A court, when determining the confiscation of property, shall specifically indicate which property is to be confiscated. Property owned by a legal person which has been transferred to another person, may also be confiscated.

**The recovery of money** is a sum of money which is imposed by a court or prosecutor to be paid for the benefit of the State within 30 days in the amount laid down in this Section.

A monetary levy proportionate to the harmfulness of the criminal offence and the financial status of the legal person shall be determined:

- 1) for a criminal violation - in the amount of five and up to ten thousand minimum monthly wages prescribed in the Republic of Latvia;
- 2) for a less serious crime - in the amount of ten and up to fifty thousand minimum monthly wages prescribed in the Republic of Latvia;
- 3) for a serious crime - in the amount of twenty and up to seventy five thousand minimum monthly wages prescribed in the Republic of Latvia;
- 4) for an especially serious crime - in the amount of thirty and up to hundred thousand minimum monthly wages prescribed in the Republic of Latvia.

The recovery of money which has been imposed upon a legal person, shall be paid from the funds of the legal person.

A court or prosecutor accordingly may divide the payment for the recovery of money into periods or postpone for a time period not exceeding one year from the day when a ruling or injunction on coercive measure has entered into effect. If recovery of money has not been paid, the coercive measure shall be implemented by compulsory procedures.

Paragraph 3 of Article 12 of the Convention is regulated by Chapter 27 of the Criminal Procedure Law - Actions with Criminally Acquired Property - and Chapter 28 of the Criminal Procedure Law - Ensuring of a Solution to Financial Matters.

Article 70.<sup>3</sup> of the Criminal Law provides for applying liquidation to a legal person as a means of coercive measures.

## **Actions with Criminally Acquired Property (Chapter 27 of the Criminal Procedure Law)**

### **Section 356. Recognition of Property as Criminally Acquired**

(1) Property may be recognised as criminally acquired by a court ruling that has entered into effect, or by a decision of a prosecutor to terminate criminal proceedings.

(1<sup>1</sup>) If property has been recognised as criminally acquired, the seizure, burdens, prohibitions and pledge rights thereof, including all burdens and pledge notations entered in respect of property to be registered in the public register, shall be deleted.

(2) *During pre-trial criminal proceedings, property may also be recognised as criminally acquired by:*

*1) a district (city) court decision in accordance with the procedures laid down in Chapter 59 of this Law;*

*2) a decision of the person directing the proceedings, if, during the pre-trial criminal proceedings, the property in relation to which its owner or lawful possessor had applied for the loss of property and right to which he or she has proven, by eliminating any doubts, after its finding has been found in the possession of the suspect, accused or third persons or it has been removed therefrom.*

*(3) After termination of criminal proceedings for reasons other than exoneration, property may be recognised as criminally acquired by a district (city) court ruling in accordance with the procedures laid down in Chapter 59 of this Law.*

*(4) During the pre-trial criminal proceedings or after termination of criminal proceedings for reasons other than exoneration of a person, the property, in the case referred to in Paragraph two, Clause 2 of this Section, for which the rights have been registered in the public register and the entry in this register has been amended after committing of the criminal offence may be recognised as criminally acquired only by a district (city) court ruling in accordance with the procedures laid down in Chapter 59 of this Law.*

*(5) If an assumption is expressed that the property is criminally acquired or related to a criminal offence, the person directing the proceedings shall notify the person that such person may, within 45 days from the moment of notification, submit information on the legality of the origin of the relevant property, and also shall inform the person of consequences for failure to submit such information.*

### **Section 357. Returning of Criminally Acquired Property**

*(1) Property shall be returned, on the basis of ownership, to the owner or lawful possessor thereof by a decision of the person directing the proceedings or court after storage of such property is no longer necessary for achieving the objective of criminal proceedings. Action with property which is not withdrawn by its owner or lawful possessor shall take place in accordance with the same procedures as action with property which has been seized.*

*(2) Property, the circulation of which is prohibited by law and which, as a result of such prohibition, is located in the possession of a person illegally, shall not be returned to such possessor, but rather transferred to the relevant State authority, with a decision of the person directing the proceedings, or to a legal person that is entitled to obtain and use such property.*

*(3) Property the origin of which is the State resources used for disclosure of a criminal offence shall be returned to the legal possessor or recovered for the benefit of him or her. If such property is alienated, destroyed, concealed or disguised and it is not possible to return it, other property may be subjected for such recovering in the value of the property to be returned.*

*(4) If a criminally acquired property - immovable property - is returned, on the basis of ownership, to the owner or lawful possessor, lease or rental contracts of the residential premises entered into after committing of criminal offence shall not be in force.*

### **Section 358. Confiscation of Criminally Acquired Property for the Benefit of the State**

*(1) Criminally acquired property shall be confiscated with a court ruling for the benefit of the State, if the further storage of such property is not necessary for achieving the objective of*

*criminal proceedings and if such property does not need to be returned to the owner of lawful possessor, and acquired financial resources shall be included in the State budget.*

*(2) In the case referred to in Paragraph one of this Section a criminally acquired property may be confiscated for the benefit of the State also by a decision of a prosecutor to terminate criminal proceedings, except when a property the right to which are to be registered in the public register has been recognised as criminally acquired.*

**Section 358.<sup>1</sup> Replacement of Criminally Acquired Property Upon Request of a Person**

*(1) If the confiscation of criminally acquired property for the benefit of the State has been applied to a person, a prosecutor or a judge, in the case specified by the Criminal Law, may replace the confiscated property with financial resources in the value of such property, if the person to whom the confiscation has been applied has, within 3 working days after entering into effect of a ruling, submitted a justified request to replace the property and if the person has compensated the harm caused to a victim. The matter on replacement of property shall be decided in a written procedure by determining a time period of 30 working days for voluntary payment of the financial resources.*

*(2) A person shall submit a request to the Office of the Prosecutor where the decision to confiscate a criminally acquired property has been taken, or in a court of first instance.*

*(3) A complaint regarding a decision to reject the request to replace the property shall be examined by a higher-ranking prosecutor or a higher-level court judge in a written procedure. The decision shall not be subject to appeal.*

*(4) A prosecutor or a judge who took the decision on the replacement of property shall revoke the seizure of a criminally acquired property when the person has paid financial resources in the value of the replaced property. The value of the replaced property shall be determined according to the value it had at the time of seizure.*

*(5) If the financial resources are not paid in full within 30 working days after entering into effect of a decision on the replacement of property, the decision on the replacement of the confiscation of property shall cease to be in effect. A ruling on confiscation of a criminally acquired property for the benefit of the State shall be sent for execution in accordance with the procedures laid down in this Law.*

*(6) If within the period specified in Paragraph five of this Section the financial resources have been paid partly, a judge or a prosecutor after receipt of a notification regarding execution of confiscation of criminally acquired property shall take one of the following decisions in a written procedure:*

*1) regarding reimbursement of financial resources to a person to whom confiscation of criminally acquired property has been applied if the criminally acquired property is confiscated;*

*2) regarding transferring of financial resources to the State budget if the confiscation of criminally acquired property has not been possible.*

**Section 359. Use of the Resources Acquired as a Result of the Confiscation of Criminally Acquired Property**

*(1) After entering into effect of a final ruling in criminal proceedings, resources acquired as a result of the confiscation of criminally acquired property shall be used first for the ensuring and payment of the requested compensation. Actions with the acquired resources shall take place*

*in accordance with the procedures laid down in the Law on Execution of Confiscation of Criminally Acquired Property.*

*(2) After receiving a notification from a bailiff regarding execution of confiscation of a criminally acquired property, including compensation for a caused harm to a victim and payment of immovable property tax debts to a local government, a judge shall take a decision regarding recovery of resources which are used for compensation for a caused harm to a victim and for covering immovable property tax debts from a convicted person for the benefit of the State in a written procedure. The decision shall not be subject to appeal. The court shall send the ruling together with a cover letter to a sworn bailiff for execution in accordance with the procedures laid down in this Law. A sworn bailiff shall perform the recovery in accordance with the procedures laid down in the Civil Procedure Law.*

### **Section 360. Rights of Third Persons**

*(1) If a criminally acquired property has been found on a third person, such property shall be returned, on the basis of ownership, to the owner or lawful possessor thereof.*

*(2) If a criminally acquired property has been returned to the owner or lawful possessor thereof, the third person who acquired such property, or pledge, in good faith has the right to submit a claim, in accordance with the procedures laid down in the Civil Procedure Law, regarding compensation for the loss, including against an accused or convicted person.*

*(2<sup>1</sup>) If a criminally acquired property is an immovable property that escheats to the State, it shall be left in the ownership of a third person who acquired such property in good faith and its ownership rights have been corroborated in a public register. The value of such property shall be recovered, in accordance with the procedures laid down in the Civil Procedure Law, for the benefit of the State from the person who has committed a criminal offence.*

*(3) If a criminally acquired immovable property is confiscated (from a third person), the confiscation itself may not be grounds to request early fulfilment of obligations which are secured with the relevant immovable property or to believe that the abovementioned obligations are being violated.*

### **Ensuring of a Solution to Financial Matters (Chapter 28 of the Criminal Procedure Law)**

#### **Section 361. Seizure of a Property**

*(1) To ensure the recovery of procedural expenditures and compensation for a harm to a victim, possible return, on the basis of ownership, of a criminally acquired property to the owner or lawful possessor, possible confiscation of a criminally acquired property, resources that a person has acquired from the disposal of such property, the yield received as a result of the use of the criminally acquired property, or property related to a criminal offence, and also possible confiscation of property as an additional punishment, the property will be seized within criminal proceedings. A property may be seized to ensure possible replacement of the special confiscation of a property in the cases specified in the Criminal Law, as well as to ensure the recovery of such property the origin of which is the State resources used for disclosure of a criminal offence.*

*(1<sup>1</sup>) -*

*(2) A property may also be seized in proceedings regarding the application of coercive measures to a legal person and regarding the determination of compulsory measures of a*

medical nature, if it is necessary to ensure a solution to financial matters in criminal proceedings, the possible liquidation, recovery of money, or confiscation of property.

(3) In pre-trial proceedings, property shall be seized with a decision of the person directing the proceedings that has been approved by an investigating judge, but during trial a court shall take a decision.

(4) In emergency cases when property may be alienated, destroyed, or hidden due to a delay, the person directing the proceedings may seize the property with the consent of a prosecutor. The person directing the proceedings shall notify an investigating judge of the seizure not later than on the next working day by presenting the protocol and other materials that justify the necessity and emergency of the seizure. If the investigating judge does not approve the decision of the person directing the proceedings on the seizure of a property, the seizure of the property must be revoked.

(5) The decision on the seizure of a property shall indicate the purpose of the seizure and the person who owns the property upon which shall be seized, and, if the amount of the financial matter to be solved is known, the necessary ensuring sum shall also be indicated.

(6) -

(7) If a mortgage pledge or other pledge, which has been specified by law and should be registered, was registered in relation to property before its seizure, actions with the pledged property may take place only after co-ordination with the person directing the proceedings. If such property has been recognised by a court decision as criminally acquired, the seizure of the property has priority in relation to the pledge.

(7<sup>1</sup>) If in relation to property which is being seized a mortgage or commercial pledge has been registered, the person directing the proceedings shall inform the mortgage creditor or commercial pledgee about the taken decision. Upon receipt of information regarding the seizure of a property, a mortgage creditor or commercial pledgee has the right to submit documents regarding the origin of property.

(8) It shall not be allowed to seize basic necessity objects used by the person whose property is being seized, or by the family members of such person and the persons dependent on such person. Annex 1 to this Law shall determine the list of such objects. A prohibition specified in this Paragraph shall not apply to criminally acquired property or other property related to a criminal offence.

(9) A copy of the decision shall be sent or issued to a person whose property is being seized.

(10) The person directing the proceedings shall register the seized property in the list of objects and documents in the criminal case.

### **Section 361.<sup>1</sup> Sending for Execution of the Decision on the Seizure of a Property**

(1) The execution of the seizure may be assigned, by sending the extract of the decision, to:

1) the State Police;

2) the public register in which the rights to the seized property are registered so that it would register the prohibition to alienate and to burden such property with other property or obligation rights;

3) capital company or co-operative society whose capital shares (stocks) or co-operative shares are seized so that it would transfer all the money which is due to the relevant person from a capital company or co-operative society into the bank account indicated by the person directing the proceedings (account of an institution, account of the Treasury, or account of the person which has been seized), as well as would

*comply with the prohibition to alienate and burden such capital shares (stocks) and co-operative shares with other property or obligation rights;*

*4) credit institution or investment brokerage company in which the seized monetary deposits, financial instruments and capital shares (stocks) are stored so that withdrawal operations with them would be discontinued.*

*(2) Upon seizing the property, the owner, possessor, user, or holder of such property shall be notified of the prohibition to act with or use such property, as well as of the rights of the owner of property infringed during criminal proceedings. If necessary, a tangible property shall be removed and placed in storage.*

*(3) Upon seizing capital shares (stocks) or co-operative shares, the person directing the proceedings may impose a duty on a person to notify if he or she is due any payments or money from these capital shares (stocks) or co-operative shares, including from third persons.*

*(4) Upon seizing capital shares (stocks) or co-operative shares, the person directing the proceedings may impose a duty on a capital company or co-operative society whose capital shares (stocks) or co-operative shares are seized to transfer all the money which is due to the person from a capital company or co-operative society into the bank account indicated by the person directing the proceedings (account of an institution, account of the Treasury, or account of the person subject to seizure).*

*(5) Upon seizing money of members of a partnership, the person directing the proceedings may impose a duty on a partnership to transfer all the money which is due to the person from a partnership into the bank account indicated by the person directing the proceedings (account of an institution, account of the Treasury, or account of the person subject to seizure).*

### **Section 362. Protocol on the Seizure of a Property**

*(1) A protocol shall be written on the seizure of a property. A protocol regarding the seizure of property need not be written if the decision on the seizure of property, by sending an extract of the decision, has been assigned for execution in accordance with Section 361.1, Paragraph one, Clauses 2, 3, and 4 of this Law and it is not necessary to describe individual features of the property or if the seizure is imposed on virtual currency.*

*(2) A protocol shall record the following:*

*1) each object upon which has been seized, indicating the name, label, weight, level of wear, and other individual features;*

*2) the objects which have not been seized, if the entire property is being seized;*

*3) the application that a third person has submitted regarding ownership of the property.*

*(3) -*

*(3<sup>1</sup>) In seizing the property, also all the civil yield arising or due from the seized property shall be considered seized.*

*(4) If property has been removed, the protocol shall indicate precisely what has been removed, and where and with whom such property has been placed in storage.*

*(5) If an attempt to hide, destroy, or damage property was made during the term of seizure, an entry on such attempt shall be made in the protocol.*

### **Section 363. Issuance of Copies of a Protocol on the Seizure of a Property**

*(1) A copy of the protocol on the seizure of a property shall be issued, in return for a signature, to the person by whom a description of the property was made, or one of his or her family members of legal age, but if such person is not present, the copy shall be issued to a representative of the local government in the administrative territory of which the property was seized.*

*(2) If such property is being seized which is located in the territory of a legal person, a copy of the protocol on the seizure of the property shall be issued, in return for a signature, to a representative of such legal person.*

#### **Section 364.** *Determination of the Value of Property Subjected to Seizure*

*(1) Property which is being seized shall be assessed in accordance with the prices prevalent in the area, taking into account the degree of wear and tear of such property. The immovable property which is being seized shall be assessed in accordance with the market value. If necessary, a specialist shall be invited for the determination of the value of the property.*

*(2) The value of the property shall be determined at the time of seizure. If it is not possible, the value of the property shall be determined not later than until completion of the pre-trial proceedings during the pre-trial proceedings, but during trial - until the retiring of the court to the deliberation room.*

*(3) Money, financial instruments, stocks and shares of the equity capital shall be registered on the basis of the nominal value thereof.*

*(4) If only a part of the property must be seized for a specific sum, the owner or user of the property has the right to indicate the property that, according to his or her view, should be subjected to seizure.*

#### **Section 364.<sup>1</sup>** *Permission for the Disposal of Seized Property*

*(1) If the person directing the proceedings, when seizing the property, finds that in relation to the same property there is a registered note of a sworn bailiff on directed recovery, the person directing the proceedings shall inform the sworn bailiff that the property is being seized.*

*(2) If it is necessary for a sworn bailiff in accordance with the procedures laid down in the Civil Procedure Law, in executing the ruling, to direct the recovery against the seized property, he or she shall submit an application to the person directing the proceedings. The person directing the proceedings shall, after assessment of the conditions of the criminal proceedings and the essence of that claim for the satisfaction of which a note is registered regarding bringing of collection, take a decision on permission or prohibition for the bailiff to bring a collection in respect of such property. If the person directing the proceedings is a judge or a court, the application shall be examined and the decision shall be taken in a written procedure. An amount to be retained for the ensuring of property matters in the criminal proceedings shall be indicated in a decision on permission to direct recovery against the seized property. The decision taken by the person directing the procedures shall not be subject to appeal.*

*(2<sup>1</sup>) If the person directing the proceedings has received an information from an institution regarding the alienation of immovable property for public needs, he or she shall notify the institution about an amount to be retained for the ensuring of property matters in the criminal proceedings.*

*(3) If the conditions of criminal proceedings based on the evaluation of which the person directing the proceedings has given the permission to a bailiff to direct recovery against a*

*seized property have significantly changed, the person directing the proceedings may take the decision to prohibit directing the recovery against the seized property notifying such decision to the bailiff until the closing date of auction indicated in the advertisement regarding auction or until sale of movable property without auction.*

*(4) After the disposal of the seized property in accordance with the procedures laid down in the Civil Procedure Law or after alienation of immovable property for public needs in case a contract regarding voluntary alienation of immovable property has been entered into or the law on alienation of the respective property has come into effect, but before the reimbursement of compensation, a sworn bailiff or an institution shall respectively notify the person directing the proceedings thereof, asking to revoke the seizure of the disposed property, and shall transfer the amount indicated by the person directing the proceedings into the deposited funds account indicated by him or her. The person directing the proceedings shall decide on the seizure of these financial resources. The confirmation of an investigating judge is not necessary for such decision.*

### **Section 365. Storage of a Seized Property**

*(1) Property which has been seized may be left in storage with the owner or user thereof, his or her family members, or another natural person or legal person to whom the liability, provided for by law, regarding the storage of the referred to property shall be explained. Such persons shall sign regarding such storage.*

*(2) -*

*(2<sup>1</sup>) Property which has been seized but which is not possible to leave in storage with the persons specified in Paragraph one of this Section shall be handed over for storage to the institutions specified by the Cabinet with the decision of the person directing the proceedings. The Cabinet shall determine the procedures for storage of such property. Property the long-term storage of which is not possible or the long-term storage of which causes losses for the State shall be handed over for disposal or destruction in accordance with the procedures laid down by the Cabinet with the decision of the person directing the proceedings. If virtual currency is seized, it shall be handed over for disposal by a decision of the person directing the proceedings. The Cabinet shall determine the procedures for the disposal of virtual currency.*

*(2<sup>2</sup>) The person directing the proceedings shall send a copy of the decision to sell or dispose of the seized property to the owner or lawful possessor of the seized property, informing him or her of the right to appeal against the decision in pre-trial criminal proceedings before the investigating judge. Execution of the decision shall be suspended until examination of the complaint. Suspending the execution of the decision shall not apply to the property the long-term storage of which is not possible. The decision of the investigating judge shall not be subject to appeal.*

*(3) If such objects are being seized the circulation of which has been prohibited by law, as well money, currency, materialised financial instruments, bills of exchange, registered shares in printed form and other monetary documents, articles made from precious metals or precious stones, as well as precious metals and precious stones, the place of storage and the procedures for storage thereof shall be determined by the Cabinet.*

*(4) Monetary deposits, financial instruments and capital shares (stocks) stored in credit institutions or investment brokerage companies shall not be removed, but, after receipt of the decision on the seizure of a property, withdrawal operations with them shall be discontinued.*

### **Section 366. Revocation of the Seizure of Property**

*(1) The person directing the proceedings shall take the decision to revoke the seizure of property, and shall immediately notify the persons whose property has been seized, or in the storage of whom the seized property was placed, of such revocation. During an investigation, until the completion thereof, the investigator shall take the decision with the consent of the supervising prosecutor. The decision to revoke the seizure of a property shall be taken, if:*

*1) a court takes a judgment of acquittal;*

*2) -*

*3) the person directing the proceedings terminates criminal proceedings with a rehabilitating decision;*

*4) compensation for harm has not been requested in criminal proceedings, or a victim has withdrawn such request;*

*5) a criminal offence has been reclassified on the basis of another Section of the Criminal Law that does not provide for confiscation of property;*

*5<sup>1</sup>) a bailiff has sold attached property with a permission of a person directing the proceedings in accordance with the procedures laid down in the Civil Procedure Law, in order to execute the judgment;*

*6) any other reason for the ensuring of a solution to financial matters has ceased.*

*(2) The person directing the proceedings may retain the seizure of only such part of property that may be necessary for the covering of procedural expenditures.*

*(3) After entering into effect of a ruling, the person directing the proceedings shall immediately notify the person, mortgage creditor, commercial pledgee, public register, capital company, credit institution or investment brokerage company which ensured the seizure of the property.*

*(4) If, within a month after the day when a notification regarding revocation of the seizure of property was sent, a person whose property was seized and whose property was transferred in storage in accordance with Section 365, Paragraph 2.1 of this Law has not removed the property belonging thereto, a person directing the proceedings or - after entering into effect of the final judgment in the criminal proceedings - a judge, prosecutor of the institution, which sent the notification, or the head of an investigating institution or a unit thereof shall take a decision to put up for sale or to destroy the property. The decision shall not be subject to appeal. The Cabinet shall determine the procedures for the disposal and destruction of the property.*

- 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**).

*Article 46 of the Criminal Law determines the general principles for determination of punishment. In determining the type of punishment, the nature of and harm caused by the criminal offence committed, as well as the personality of the offender shall be taken into account. In determining the amount of punishment, the circumstances mitigating or aggravating the liability shall be taken into account. Thus, the guilty personality is also evaluated, including the previous criminal record.*

Certain provisions are governed by the provisions of the Criminal Procedure Law on international cooperation, depending on the type of cooperation.

Currently the law enforcement authorities (prosecutor's office) do not have any information about the cases or cases concerning the trade in human organs, which is why there is no good or bad practice in such matters.

### **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**).

Article 48 of the Criminal Law states that the following may be considered to be aggravating circumstances:

- 1) the criminal offence constitutes recidivism of criminal offences;**
- 2) the criminal offence was committed while in a group of persons;**
- 3) the criminal offence was committed, taking advantage in bad faith of an official position or trust of another person;**
- 4) the criminal offence has caused serious consequences;**
- 5) the criminal offence was committed against a woman, knowing her to be pregnant;
- 6) the criminal offence was committed against a person who has not attained eighteen years of age or against a person by taking advantage of his or her condition of helplessness or of infirmity due to old-age;**
- 7) the criminal offence was committed against a person taking advantage of his or her official, financial or other dependence on the offender;
- 8) the criminal offence was committed with particular cruelty or with humiliation of the victim;
- 9) the criminal offence was committed by taking advantage of the circumstances of a public disaster or during an emergency situation or a state of exception;
- 10) the criminal offence was committed employing weapons or explosives, or in some other generally dangerous way;
- 11) the criminal offence was committed out of a desire to acquire property;
- 12) the criminal offence was committed under the influence of alcohol, narcotic, psychotropic, toxic or other intoxicating substances;
- 13) the person committing the criminal offence, for the purpose of having his or her punishment reduced, has knowingly provided false information regarding a criminal offence committed by another person;
- 14) the criminal offence was committed due to racist, national, ethnic, or religious motives or due to social hatred;
- 15) the criminal offence related to violence or threats of violence, or the criminal offence against morality and sexual inviolability was committed against a person to whom the perpetrator of a criminal offence is related in the first or second degree of kinship, or against the spouse or former spouse, or against a person with whom the perpetrator of a criminal offence is or has been in continuous intimate relationships, or against a person with whom the perpetrator of a criminal offence has a joint (single) household;

16) the criminal offence related to violence or threats of violence, or an intentional criminal offence against health or morality and sexual inviolability of a person was committed at the presence of a minor;

17) the perpetrator of the criminal offence has knowingly given a false testimony.

*Taking into account the nature of the criminal offence, it may be decided not to consider any of the circumstances referred to in Paragraph one of this Section as aggravating.*

*It should also be noted that most of these circumstances have already been mentioned as a sign of the composition of a criminal offense, in which case they will not be considered as an aggravating circumstance.*

#### **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**).

*Article 6 of the Criminal Procedure Law determines mandatory nature of criminal proceedings, that is, the official who is authorised to conduct criminal proceedings has an obligation within his or her competence to initiate criminal proceedings and to lead such proceedings to the fair regulation of criminal legal relations provided for in the Criminal Law in each case where the reason and grounds for initiating criminal proceedings have become known.*

*A reason for initiating criminal proceedings is the submission of information indicating the committing of a possible criminal offence to an investigating institution, Office of the Prosecutor, or court, or the acquisition of such information at an institution responsible for the progress of criminal proceedings. Grounds for the initiation of criminal proceedings means that criminal proceedings may be initiated, if the actual possibility exists that a criminal offence has taken place.*

*The first paragraph of Article 7 of the Criminal Procedure Law generally states that criminal proceedings shall be conducted in the interests of society regardless of the will of the person upon whom the harm was inflicted, if the Criminal Procedure Law does not specify otherwise. The prosecution function in criminal proceedings on behalf of the State shall be implemented by a prosecutor. The second paragraph of the article exhaustively defines the cases for which criminal proceedings for the intended offense are initiated, if the application of the person who has been harmed is received. These mentioned offenses do not cover the offenses regulated by the norms of the Convention, so it does not matter if the victim withdraws his application. The significance in some cases could be the settlement concluded between the victim and the perpetrator.*

- 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**)).

According to the provisions of Part A of the Criminal Procedure Law of Latvia, the following investigative activities may be carried out in Latvia:

- *Interrogation (of a person which has the right to defence, witness, victim, representative, owner of property infringed during the criminal proceedings, expert, auditor; interrogation before being presented for identification);*
- *Duty to Indicate the Source of Information;*
- *Questioning;*
- *Confrontation;*
- *Inspection (of the location of an event, terrain, premises, vehicle, object, corpses, animals);*
- *Exhumation of a corpse;*
- *Examination (including examination by force);*
- *Investigative experiment;*
- *On-site examination of testimony;*
- *Presentation for identification;*
- *Searches (of a person, in the premises of diplomatic or consular mission offices, of the lawyer's place of work, residence or vehicle);*
- *Removal;*
- *Submission of Objects and Documents (on the basis of the Initiative of a person; requested by the person directing the proceedings);*
- *Storage of Data located in an Electronic Information System;*
- *Disclosure and Issue of Data Stored in an Electronic Information System;*
- *Expert-examination.*

*In addition, the following special investigative actions shall be permitted in investigating less serious, serious or especially serious crimes:*

- *control of legal correspondence;*
- *control of means of communication;*
- *control of data in an automated data processing system;*
- *control of the content of transmitted data;*
- *audio-control of a site or a person;*
- *video-control of a site;*
- *surveillance and tracking of a person;*
- *surveillance of an object;*
- *a special investigative experiment;*
- *the acquisition in a special manner of the samples necessary for a comparative study;*
- *control of a criminal activity.*

#### **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;

*According to the Law on the Rights of Patients, a patient has the right to information regarding the opportunities for the receipt of health care services and the procedures for the payment for health care services. This information shall be available to the public. A patient has the right to receive information regarding his or her state of health from the attending physician, including regarding the diagnosis, the plan for medical treatment, examination and rehabilitation of the disease, the prognosis and consequences, the functional restrictions caused by the disease and the opportunities for prophylaxis, as well as the right to receive information after examinations and surgical or other type of invasive intervention performed within the framework of medical treatment regarding the results of the medical treatment, regarding the previously unforeseen outcomes and the reasons thereof. A patient has also the right to receive information regarding medical treatment from other medical practitioners involved in his or her medical treatment in accordance with their competence.*

- assist victims in their physical, psychological and social recovery;

*According to the Law on the Rights of Patients, a patient and his or her relatives have the right to receive mental care which, in accordance with the regulatory enactments regulating the activities of chaplain services and religious organisations, shall be provided by the chaplain of a medical treatment institution.*

- provide for the right of victims to compensation from the perpetrators.

*State funded social rehabilitation services for victims of trafficking in human beings are available to all persons who are recognized as victims of trafficking in human beings regardless the form of exploitation. The aim of the social rehabilitation is to prevent or to reduce the negative social consequences caused by trafficking.*

*Procedures by which victims of trafficking in human beings receive the State funded social rehabilitation services are set in the Regulations of the Cabinet of Ministers of July 16, 2019, No.344 „Regulations on procedures by which victims of trafficking in human beings receive social rehabilitation services and the criteria for the recognition of a person as a victim of trafficking in human beings" and the Regulations of the Cabinet of Ministers of June 13, 2017.*

*Information and documentation (medical and consent for donation) about the organ donation case been performed in Latvia is kept in National Transplantation Coordination Service*

- b. 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**).

*The Explanatory Report of the Convention states that the norms of victims' rights are related to the EU Victims' Protection Directive, the requirements of which are also binding on Latvia.*

*A person shall be recognised as a victim by the person directing the proceedings, with his or her decision which may also be written in the form of a resolution. The person directing the*

*proceedings shall inform a person in a timely manner regarding the rights thereof to be recognised as a victim in criminal proceedings. A person may be recognised as a victim only with the consent of such person or his or her representative. A person who does not want to be a victim shall obtain the status of a witness. If a person, due to physical or mental deficiencies, is not able to express his or her will to be a victim by himself or herself, the person shall be recognised as a victim without his or her consent. As soon as the person is recognised a victim, he or she shall, without delay, be issued and, if necessary, explained the information regarding the fundamental rights of the victim. The victim shall confirm with his or her signature that the information has been issued and, if necessary, the rights have been explained.*

*Section 97.<sup>1</sup> of the Criminal Procedure Law states the fundamental Rights of a Victim in Criminal Proceedings. A victim has the following rights:*

- 1) to receive information regarding the conditions for applying for and receipt of a compensation, including State compensation and to submit an application regarding compensation for the harm inflicted in accordance with the procedures laid down in this Law;*
- 2) to participate in criminal proceedings, using the language in which he or she is fluent, if necessary, using the assistance of an interpreter without remuneration;*
- 3) to not testify against himself or herself or against his or her immediate family;*
- 4) to settle with a person who has inflicted harm to him or her, as well as to receive information regarding implementation of the settlement and its consequences;*
- 5) to retain an advocate for the receipt of legal assistance;*
- 6) to submit an application for taking measures in case of a threat to the person himself or herself, his or her immediate family or property;*
- 7) in the cases provided for in this Law to submit an application regarding reimbursement of procedural expenses which have arisen during criminal proceedings;*
- 8) to submit a complaint in the cases, within the terms and in accordance with the procedures laid down in this law regarding a procedural ruling or an action of an official authorised for the conduct of criminal proceedings;*
- 9) to receive contact information for communication regarding the particular criminal proceedings;*
- 10) to receive information regarding the support and medical assistance available;*
- 11) to request information regarding the direction of the criminal proceedings, regarding the officials who conduct or have conducted criminal proceedings.*

*After completion of pre-trial criminal proceedings, to receive copies of the materials of the criminal case to be transferred to a court that directly apply to the criminal offence with which harm has been caused to him or her, if such materials have not been issued earlier, or with the consent of a prosecutor to become acquainted with these materials of a criminal case.*

- c. 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)**);*

*A victim has the following general principles of the rights:*

- 1) *A victim, by taking into account the amount of moral damages, physical suffering, and financial loss caused to him or her, shall submit the amounts of such harm, and use his or her procedural rights for acquiring moral and financial compensation.*
- 2) *A victim may enforce all of the rights referred to in Sections 98, 99, 100, and 101 of this Law only in the part of criminal proceedings that directly applies to the criminal offence with which harm was caused to him or her.*
- 3) *A victim - natural person may implement the rights thereof himself or herself, or with the intermediation of a representative.*
- 4) *The rights of a victim - legal person shall be implemented by the representative thereof.*
- 5) *A victim shall implement his or her rights voluntarily and in an amount designated by him or her. The non-utilisation of rights shall not delay the progress of proceedings.*
- 6) *An image of a victim recorded as a photograph, video, or by other types of technical means shall not be published in the mass media during procedural actions without the consent of such victim if such publication is not necessary for the disclosure of a criminal offence.*
- 7) *Until ascertaining the age of a victim regarding whose legal age there are doubts, the victim shall have the rights of a minor victim.*
- 8) *The representative of the victim or provider of legal aid ensured by the State shall participate in the case from the moment of accepting the task until the termination of criminal proceedings.*

*In addition to the above-mentioned fundamental rights, the victim in pre-trial criminal proceedings also has the right:*

- 1) *to submit a recusation to the official who conducts the criminal proceedings;*
- 2) *to submit applications for the performance of investigative and other operations;*
- 3) *to familiarise himself or herself with a decision to determine an expert-examination before the transferral thereof for execution, and to submit an application regarding the amendment thereof, if the expert-examination is conducted on the basis of his or her own application;*
- 4) *after completion of pre-trial criminal proceedings, to receive copies of the materials of the criminal case to be transferred to a court that directly apply to the criminal offence with which harm has been caused to him or her, if such materials have not been issued earlier, or with the consent of a prosecutor to become acquainted with these materials of a criminal case;*
- 5) *to submit a request to the investigating judge that he or she be acquainted with the materials of special investigative actions that are not attached to the criminal case (primary documents);*

6) to receive a written translation in the cases provided for in the law.

*A victim in criminal proceedings regarding a criminal offence related to violence or directed against gender inviolability or morality has the right to request the person directing the proceedings to inform him or her regarding the progress of the criminal proceedings in the part regarding such criminal offence, by which he or she was caused harm.*

*In addition to the above-mentioned fundamental rights, the victim in a court of first instance also has the right:*

- 1) to find out the place and time of the trial in a timely manner;*
- 2) to submit a recusation to the composition of the court, an individual judge, a maintainer of state prosecution, and an expert;*
- 3) to participate himself or herself in examination of a criminal case;*
- 4) to express his or her view regarding every matter to be discussed;*
- 5) to participate in an examination performed directly and orally of each piece of evidence to be examined in court;*
- 6) to submit applications;*
- 7) to speak in court debates;*
- 8) to familiarise himself or herself with a court ruling and the minutes of a court hearing.*

*A specially protected victim may request that his or her participation and hearing in a court hearing takes place using technical means.*

*Rights of a victim in an appellate court:*

- 1) if a ruling of a court of first instance is appealed in the part regarding a criminal offence with which harm was caused to a victim, the person directing the proceedings shall send copies of received appellate complaints to the victim, and an appellate court shall notify of the time, place, and procedures for the examination of complaints;*
- 2) in a court hearing, a victim has the same rights as in a court of first instance, as well as the right to maintain and justify his or her complaint, or withdraw such complaint;*
- 3) if a decision has been taken to examine the case in a written procedure, a victim has the right to submit a recusation to the composition of the court, or an individual judge, as well as submit objections against trial of the case in a written procedure;*
- 4) a victim has the right to receive a ruling of an appellate court on the day specified by the court, and to submit a cassation complaint.*

*Rights of a victim in a cassation court:*

1) if a ruling of an appellate court is appealed in the part regarding a criminal offence with which harm was caused to a victim, the person directing the proceedings shall send copies of received cassation complaints to the victim, and a cassation court shall notify of the time, place, and procedures for the examination of complaints;

2) if a complaint is examined in a written procedure in a cassation court, a victim has the right:

1) to submit a recusation to the composition of the court, or an individual judge;

2) to submit written objections regarding the complaints of other persons;

3) to submit a reasoned request for the examination of a complaint in the oral procedure in an open court hearing in his or her presence.

3) In examining a case in a court hearing in proceedings taking place orally, a victim has the right to submit recusations, maintain or withdraw his or her complaint, and to express a view regarding other complaints that have been the grounds for his or her participation in a cassation court.

- d. 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)**)

*A victim - natural person may implement the rights thereof himself or herself, or with the intermediation of a representative. A victim has the rights to retain an advocate for the receipt of legal assistance.*

*A victim - natural person of legal age may be represented by any natural person of legal age who is not subject to trusteeship, on the grounds of the authorisation of the victim, which is drawn up as a notarially certified power of attorney. If the victim has expressed the authorisation orally, the person directing the proceedings shall draw it up in writing. Such power of attorney shall be signed by the victim and the representative, and the person directing the proceedings shall certify the signatures of the parties. An oral authorisation expressed during a court hearing shall be recorded in the minutes of the court hearing. An order shall certify the right of an advocate to participate in the criminal proceedings as a representative.*

*If harm has been caused to a minor person, the victim shall be represented by:*

1) a mother, father, or guardian;

2) one of the grandparents, a brother or sister of legal age, if the minor has lived together with one of such persons and the relevant member of the immediate family takes care of the minor;

3) a representative of an authority protecting the rights of children;

4) a representative of such non-governmental organisation that performs the function of protecting the rights of children.

*(In deciding a matter regarding permission for a person to participate in criminal proceedings as a representative of a minor victim or a victim who is subject to trusteeship due to mental or other health impairment, the person directing the proceedings shall observe the sequence, and the possibilities and desire of the specific persons to truly protect the interests of the victim.)*

*If harm has been inflicted to a person who is subject to trusteeship due to mental or other health impairment, the victim shall be represented by his or her trustee, any of the persons referred to in Paragraph two of this Section, or a representative of such non-governmental organisation who carries out protection of the interests and rights of persons with mental impairments.*

*If harm has been inflicted to a person who due to physical or mental impairments has been recognised a victim without his or her consent, the victim shall be represented by any of his or her relatives.*

*If the rights of a minor and the protection of the interests thereof are encumbered or otherwise not ensured, or the representatives submit a reasoned request, the person directing the proceedings shall take a decision on retaining of an advocate as the representative of a minor victim. In exceptional cases, the person directing the proceedings shall take a decision on retaining of the representative - advocate of a victim - a person in need or low-income person of legal age, if it is otherwise not possible to ensure the protection of the rights and interests of the person in criminal proceedings. The person directing the proceedings shall invite an advocate also in cases when any member of the immediate family is not able to represent the victim.*

*A victim or the representative thereof may retain an advocate for the provision of legal assistance in order to fully enforce rights of such victim. An advocate who participates as the representative of a victim does not have the rights.*

*A provider of legal assistance has the right to participate in all procedural actions that take place with the participation of a victim, and to completely or partially use the rights of the victim upon request of such victim.*

*Provision of legal assistance to a minor victim and the representative of a minor victim is mandatory in criminal proceedings regarding a criminal offence related to violence committed by a person, upon whom the minor victim is financially or otherwise dependent, or regarding a criminal offence against morals or sexual inviolability.*

*If the protection of rights and interests is not ensured in the criminal process or the victim or his representative makes a request to the person directing the proceedings, the person directing the proceedings makes a decision that a lawyer participates in the criminal process as a provider of legal assistance:*

- 1) an adult person who is low-income or needy, or a person who has suddenly found himself in such a situation and material condition that prevents him from ensuring the protection of his rights;*
- 2) for a specially protected victim.*

*A specially protected victim also may participate in procedural activities, with a permission of the person directing the proceedings, together with the trusted person, unless it is a person against whom criminal proceedings have been initiated, a detained, a suspect, or an accused.*

*A victim also has the rights to participate in criminal proceedings, using the language in which he or she is fluent, if necessary, using the assistance of an interpreter without remuneration.*

- e. 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)**);

*A minor, a person who is not able to completely exercise his or her procedural rights due to a mental or other health deficiencies, a person who has suffered from a criminal offence directed against the morality or sexual inviolability of a person, or from human trafficking, a person who has suffered from a criminal offence related to violence or threat of violence and committed by a member of the immediate family, former spouse of the victim or by a person with whom the victim has been in a continuous intimate relationship, a person who as a result of a criminal offence has been, possibly, inflicted serious bodily injuries or mental impairments, a person who has suffered from a criminal offence, possibly, committed due to racial, national, ethnic, or religious reasons shall be specially protected.*

*By a decision of the person directing the proceedings also a victim who, due to the harm inflicted as a result of a criminal offence, is particularly vulnerable and is not protected from repeated threat, intimidation, or revenge, shall be recognised as a specially protected victim. Information regarding the status of a specially protected victim shall be indicated in the decision to recognise a person as a victim. The decision taken shall be notified to the victim and his or her representative, if any.*

*A specially protected victim may request and receive information regarding release or escape of such arrested or convicted person from a place of imprisonment or a place of temporary detention who has inflicted harm to him or her, if there is a threat to the victim and there is not risk of harm to the arrested or convicted person. Such request may be notified until making of a final ruling in criminal proceedings.*

*Article 24 of the Criminal Procedure Law states that a person who is threatened in connection to the fulfilment of his or her criminal procedural obligation has the right to request the person directing the proceedings to take the measures provided for by law for the protection of such person and his or her property, as well as for the protection of the immediate family of such person.*

*When receiving such information, the person directing the proceedings shall, depending on the specific circumstances, decide on the necessity to take one or more of the following measures:*

- 1) to initiate another criminal proceeding for the investigation of the threat;*
- 2) to select a corresponding security measure for the person in the interest of whom the threat has taken place;*
- 3) to institute determination of special procedural protection for the person who is being threatened;*
- 4) to assign law enforcement institutions with the task of protecting the person or his or her property, as well as protecting the immediate family of such person.*

*If these measures are not able to prevent an actual threat to the life of a person, the person directing the proceedings shall refuse the use of the evidence that is the case of the threat.*

*A victim, his or her guardian or trustee has the right, in all stages of criminal proceedings and in all forms thereof, to request that a European protection order is issued, if the grounds for taking a European protection order laid down in this Law exist.*

*If the victim, witness and other person who testifies or has testified in a criminal trial about serious or particularly serious crimes, threats to commit murder and inflict serious bodily harm, harassment, as well as a minor who testifies to sexual acts with a person who has not reached the age of sixteen, indulging in fornication and cruel or violent treatment, and there is a real threat to the life, health and property of the person whose threat may affect the said person, real threat is expressed, or information that gives the person directing the process sufficient grounds to believe that the threat may be real due to the testimony given by this person is the reason for the special procedural protection.*

*The grounds for special procedural protection shall be a real threat to the life, health or property of a person, expressed real threats, or information that provides sufficient grounds for the person directing the proceedings to believe that a threat may be real in connection with the testimony provided by such person. A written submission of a threatened person, or the representative or defence counsel thereof, if a threatened person agrees to it and a proposal of the person directing the proceedings shall be the grounds for the determination of special procedural protection.*

*Neither a defence counsel, nor other persons who participate in criminal proceedings and who have knowledge, in connection with the execution of the procedural duties thereof, of the determination of special procedural protection have the right to disclose information regarding a person under special procedural protection, and the measures for the protection of such person.*

*Special features of the course of procedural actions in pre-trial proceedings:*

*1) A person for whom special procedural protection has been determined shall be summoned to an interrogation through the intermediation of a special protection institution;*

*2) In recording in documents procedural actions wherein a protected person participates for whom personal identity data has been supplemented with a pseudonym, the person directing the proceedings shall only indicate a pseudonym in place of the identity data of such person. If an indication of the address of the receipt of a consignment is necessary, the address of a special protection institution shall be indicated;*

*3) In performing procedural actions wherein several persons participate and wherein the prevention of the possibility of identifying a person under special procedural protection is necessary, technical means that do not allow for an identification of such person shall be used. Persons under protection have the right to not answer questions, if the answers may provide the opportunity to determine the identity thereof;*

*4) An official, who performs protection measures for a person involved in the criminal proceedings not exceeding his or her powers, has the right to be present in procedural actions which are performed with a person under special procedural protection;*

- 5) *With the consent of the Prosecutor General, criminal proceedings against an accused for whom special procedural protection has been determined may be isolated in separate records;*
- 6) *The address of a special protection institution shall be indicated instead of the address of a person under special procedural protection in the list of persons to be summoned to a court hearing. Only the pseudonym of a person whose personal identity data have been substituted with a pseudonym, and the address of a special protection institution, shall be entered.*

*Special features of trial:*

- 1) *A criminal case wherein a person has been recognised as requiring special procedural protection shall be examined in a closed court hearing;*
- 2) *If necessary, a protected person may participate in a court hearing by using technical means, complying with the procedures laid down in Section 140 of this Law, if the person himself or herself is located outside of the court room;*
- 3) *A person whose personal identity data have been substituted with a pseudonym in criminal proceedings has the right to not testify in court, if there are grounds to believe that the security of such person is threatened. Such person shall not be held criminally liable regarding the refusal to testify in court. In such case, the testimony provided in pre-trial proceedings by the person whose personal identity data has been substituted with a pseudonym shall not be read in a court hearing, and such testimony may not be used as evidence in the case;*
- 4) *If a person whose personal identity data has been substituted with a pseudonym in criminal proceedings provides testimony in court using technical means in order not to allow for the possibility of identifying such person, visual or acoustic disturbances shall be created, ensuring the court with the possibility to see and hear such person without the referred to disturbances. Persons under protection have the right to not answer questions, if the answers may provide the opportunity to determine the identity thereof;*
- 5) *If necessary, a person whose identity is being hidden may be interrogated by court in a separate room, ensuring the ability to hear the provided testimony in the court room, as well as the possibility to ask the person questions and hear the answers;*
- 6) *If the identity data of a person whose data is being substituted in criminal proceedings with a pseudonym has been disclosed in a court hearing, the Prosecutor General shall assign, with a decision thereof, a special protection institution to take the protection measures of such person specified in a special law.*

*Article 16 of the Special Protection of Persons Law states that special protection of a person shall be ensured by using the operational activities measures specified in the Operational Activities Law as well as the following special protection measures:*

- 1) *a security guard for the person to be protected;*
- 2) *the securing against unsanctioned wiretapping of the conversations of the person to be protected, the securing against unsanctioned control of his or her correspondence;*
- 3) *the movement of the person to be protected to other unknown (confidential) residential premises;*
- 4) *the issuance of a passport and other documents with different personal identity data;*

- 5) *the change of the permanent residence and place of work of the person to be protected;*
- 6) *the protection and non-issuance from State information systems of the data of the person to be protected;*
- 7) *the transfer of the person to be protected to another country in accordance with the concluded international agreements or an agreement with such country;*
- 8) *if necessary, insurance of the property of the person to be protected;*
- 9) *convoying of the detained and convicted persons to be protected separately from other prisoners;*
- 10) *the change of identity of the person to be protected.*

*If the measures to be taken cannot guarantee the security of a protected person, the Prosecutor General, or the court that determined protection, shall take the decision, on the basis of a proposal of the person directing the proceedings, to not use the testimony of such person as evidence in the criminal case.*

- f. 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**).

*Provision of legal assistance to a minor victim and the representative of a minor victim is mandatory in criminal proceedings regarding a criminal offence related to violence committed by a person, upon whom the minor victim is financially or otherwise dependent, or regarding a criminal offence against morals or sexual inviolability.*

*If the protection of rights and interests is not ensured in the criminal process or the victim or his representative makes a request to the process manager, the person directing the proceeding makes a decision that a lawyer participates in the criminal process as a provider of legal assistance:*

- 1) *an adult person who is low-income or needy, or a person who has suddenly found himself in such a situation and material condition that prevents him from ensuring the protection of his rights;*
- 2) *for a specially protected victim.*

*If a minor victim or his or her representative has not entered into an agreement with an advocate regarding provision of legal assistance, the person directing the proceedings shall take a decision to retain an advocate. In such case payment to the advocate for the provision of State ensured legal assistance and the reimbursable expenses.*

- g. 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 official who is authorised to conduct criminal proceedings has an obligation within his or her competence to initiate criminal proceedings and to lead such proceedings to the fair regulation of criminal legal relations provided for in the Criminal Law in each case where the reason and grounds for initiating criminal proceedings have become known.*

*A reason for initiating criminal proceedings includes a submission by a person who has suffered as a result of a criminal offence to an investigating institution, Office of the Prosecutor, or court, or the acquisition of such information at an institution responsible for the progress of criminal proceedings.*

*Criminal proceedings may be initiated, if the actual possibility exists that a criminal offence has taken place.*

*The reason for the initiation of criminal proceedings may not be anonymous information or information whose submitter refuses to disclose the source of the information but does not determine that the information cannot be about a criminal offence that was not committed on the territory of that country.*

*After that, the pre-trial criminal process is already taking place according to the rules of territorial jurisdiction and, if necessary, the rules of international cooperation.*

- h. 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;

*A victim may implement the rights thereof himself or herself, or with the intermediation of a representative. A specially protected victim may participate in procedural activities, with a permission of the person directing the proceedings, together with the trusted person, unless it is a person against whom criminal proceedings have been initiated, a detained, a suspect, or an accused. Also a victim has the rights to retain an advocate for the receipt of legal assistance. Non-governmental organizations can be a trusted person of a specially protected victim, a victim's representative in criminal proceedings or provide legal assistance to a victim. If any of the offenses were to qualify as human trafficking, would also apply Republic of Latvia Cabinet Regulation No. 344 Adopted 16 July 2019 "Regulations Regarding the Procedures by Which the Victims of the Trafficking in Human Beings Receive Social Rehabilitation Service, and the Criteria for the Recognition of a Person as a Victim of the Trafficking in Human Beings".*

*Victims also have access to a support phone number: 116006.*

## **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**)

*Law On the Protection of the Body of Deceased Human Beings and the Use of Human Tissues and Organs in Medicine*

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

*Law on the Rights of Patients; Law On the Protection of the Body of Deceased Human Beings and the Use of Human Tissues and Organs in Medicine*

- b. 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)**)

*There is no information on this matter.*

- c. 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**)

*Law On the Protection of the Body of Deceased Human Beings and the Use of Human Tissues and Organs in Medicine.*

- d. 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?

*According to the Guidelines for the Prevention of Trafficking in Human Beings for 2014-2020, in 2019 the Ministry of Health in close co-operation with specialists from the Centre for Disease Prevention and Control and the Ministry of the Interior adopted recommendations for health professionals on recognition of victims of trafficking in human beings. These recommendations contain practical information on both the problem of trafficking in human beings (forms of modern human trafficking) and the possible actions of a medical practitioner when recognising the potential victim of trafficking in human beings. In addition, these recommendations provide tips for making communication between doctor and the alleged victim of trafficking, information about receiving assistance in police, social services and NGOs working with victims of trafficking in human beings. The proposed recommendations therefore aim that medical practitioners can offer the possibility for a person to seek assistance in order to escape from the current situation.*

*These recommendations have been sent to the various medical treatment institutions and associations (Latvian Medical Association, Latvian Association of Gynecologists and Obstetricians, Latvian Family Physicians Association, Latvian Junior Doctors Association, Rural Family Doctors Association of Latvia, Latvian Transplantation Centre of Pauls Stradins Clinical University Hospital and the State Emergency Medical Service) for use in the future work.*

*The Latvian Medical Association, who promotes increasing the professional qualification of doctors, publishes a professional magazine "ārsts.lv" for patients and medical practitioners about different health issues. In (April 2019 an article on violence and trafficking in human beings was published. It was done in close cooperation with NGO who helps victims of trafficking in human beings.*

- information for civil society in the prevention of and combat against trafficking in human organs?

*Information for civil society in the prevention of and combat of human trafficking is found on a special national anti-trafficking web page.*

- e. 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.

*There is no specific campaign/programme where the focus is directed especially towards the risks and realities of the unlawfulness and dangers of trafficking in human organs.*

*Documentary film produced by the Latvian Television "Second chance. Organ transplantation" (<https://www.lsm.lv/donoru-stasti>) describes the whole process of organ transplantation from patients, relatives and doctors' perspective.*

- 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**);

## **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 Justice, Ministry of Health

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

Ministry of Justice, Ministry of Health, Ministry of the Interior, Ministry of Welfare