
GENERAL OVERVIEW QUESTIONNAIRE

COUNTRY PROFILE QUESTIONNAIRE

COUNCIL OF EUROPE CONVENTION AGAINST TRAFFICKING IN HUMAN ORGANS

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

Replies should be addressed to the Committee Secretariat
by **3rd May 2024**
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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 Organs¹ (hereinafter “the Santiago de Compostela Convention” or “the Convention”), which entered into force in March 2018, requires criminalisation of illicit removal of human organs, the use of illicitly removed organs for purposes of implantation or other purposes than implantation, illicit solicitation, recruitment, offering and requesting of undue advantages and preparation, preservation, storage, transportation, transfer, receipt, import and export of illicitly removed human organs. The Convention provides a framework for national and international co-operation across the different sectors of the public administration, measures for coordination at national level, preventive measures at domestic and international level and protection of victims and witnesses. Furthermore, it foresees the establishment of a monitoring body to oversee the implementation of the Convention by the States Parties.
2. The Committee of the Parties to the Convention (also known as the “Santiago de Compostela Committee” or “the Committee of the Parties”), established to monitor whether Parties effectively implement the Convention, decided that:

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

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

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

3. In accordance with Rule 27 of the Committee’s Rules of Procedure:

“(…)

2. The secretariat shall address such questionnaires to the Parties through the member in the Santiago de Compostela Committee representing the Party to be monitored and who will act as “contact point”.

3. Parties shall coordinate with their respective domestic authorities to collect replies, which shall be submitted to the secretariat in one of the official languages of the Council of Europe within the time limit set by the Santiago de Compostela Committee. The replies shall be detailed, as comprehensive as possible, answer all questions and contain all relevant

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

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

reference texts. The replies shall be made public, unless a Party makes a reasoned request to the Santiago de Compostela Committee to keep a reply confidential.

4. The Santiago de Compostela Committee may also receive information on the implementation of the Convention from non-governmental organisations and civil society involved in preventing and combating trafficking in human organs, in one of the official languages of the Council of Europe and within the time-limit set by the Santiago de Compostela Committee. The secretariat transmits these comments to the Party(ies) concerned.

5. The secretariat may request additional information if it appears that the replies are not exhaustive or are unclear. Where warranted, with the consent of the Party or Parties concerned and within the limits of budgetary appropriations, the Bureau may decide to mandate an on-site visit in the Party or Parties concerned to clarify the situation. The Bureau shall establish guidance as to the procedure governing the on-site visits pending any official guidelines agreed by the Santiago de Compostela Committee.

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

II. PRELIMINARY REMARKS

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

III. GENERAL LEGAL FRAMEWORK AND ALIGNMENT OF THE CONVENTION

Question 1: Non-discrimination

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

"Non-discrimination" is one of the fundamental principles for preventing and combating human trafficking, as provided in Article 4 letter f) of Law no. 241/2005 from the Penal Code. Moreover, according to Article 3 of Law no. 42/2008 regarding the transplantation of human organs, tissues, and cells, one of the fundamental principles in the field of transplantation is:

"a) the protection of human dignity and identity and the guarantee for each person, without discrimination, of respect for integrity and other fundamental rights and freedoms in the context of organ, tissue, and cell transplantation."

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;

Republic of Moldova has a legal framework that regulates all aspects of combating human trafficking:

1. Criminal Code Law No. 985/2002:
 - Article 151: Intentional serious bodily harm or damage to health;
 - Article 158: Trafficking in human organs, tissues, and cells;
 - Article 165: Human trafficking;
 - Article 206, paragraph (1), letter (1): Child trafficking;
 - Article 213¹: Advertising for the illegal acquisition of human organs, tissues, and cells or for illicit donation thereof.
2. Law No. 241/2005 on Preventing and Combating Human Trafficking;
3. Article 28 of Law No. 42/2008 on the Transplantation of Human Organs, Tissues, and Cells.

- 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;

In accordance with Article 7 of Law No. 241/2005:

"1) For the purpose of determining the methods of preventing and combating human trafficking, as well as protecting its victims, the Government approves the National Plan for the Prevention and Combating of Human Trafficking.

2. The National Plan includes a description of the existing problems, establishes general and specific objectives, outlines the activities to be carried out during the planned period, estimates the associated costs, sets deadlines, and defines both quantitative and qualitative progress indicators.

3. The entity responsible for developing the National Plan, based on proposals submitted by central and local public administration authorities, non-commercial organizations, and international organizations, is the Permanent Secretariat of the National Committee for Combating Human Trafficking."

- c. If there has not been any adoption of a national strategy and/or Action Plan to combat against the trafficking in human organs, whether there is a strategy and /or Action Plan by a particular Ministry or State Agency that leads on this nationally.

The entities responsible for implementing the National Plan for the Prevention and Combating of Human Trafficking are: the Government of the Republic of Moldova; the National Committee for Combating Human Trafficking; the Ombudsman; representatives of non-profit organizations, as well as representatives of international organizations with offices in the Republic of Moldova; Territorial Commissions for Combating Human Trafficking; the Ministry of Internal Affairs, the Ministry of Foreign Affairs and European Integration, the Information and Security Service; the Public Services Agency; the Ministry of Labor and Social Protection; the Ministry of Health; the Ministry of Education and Research; the Ministry of Economy; and the Ministry of Justice.

- 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)

Article 28, paragraph (2) of Law No. 42/2008 on the transplantation of human organs, tissues, and cells provides:
“(2) The trafficking of human organs, tissues, and cells constitutes a criminal offense and is punishable in accordance with criminal law.”

- "human organ" (Article 2)

Article 2 of Law No. 42/2008 on the transplantation of human organs, tissues, and cells defines a human organ as "a vital and differentiated part of the human body, consisting of various tissues that maintain its structure, vascularization, and physiological functions with a significant level of autonomy. For this purpose, a part of an organ is also considered an organ if it is intended to be used in the human body for the same purpose as the whole organ, provided that the requirements related to structure and vascularization are preserved."

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

Article 28 paragraph (1) of Law no. 42/2008 on the transplantation of human organs, tissues, and cells prohibits: "the trafficking of human organs, tissues, and cells, as well as obtaining financial profits or advantages from the trafficking of the human body and its parts."

- 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"?

In the legislation of the Republic of Moldova, the term "compensation" in the field of donation and transplantation provides the following legal forms:

1. According to the provisions set out in Article 4 para. (4), letter p) of Law no. 1585/1998 on compulsory health insurance, with the provision that "The Government is to have the quality of insured for the category of persons, not employed in the field of work, but who must be registered with the Transplant Agency of the Republic of Moldova: living organ donors, who benefit from a mandatory insurance policy for life."

Article 27 para. (2) of Law no. 42/2008 on the transplantation of human organs, tissues and cells: "(2) Donors may receive an indemnity that is strictly limited to covering expenses and inconveniences, namely:

- a) rewarding living donors in connection with the loss of income and other justified expenses, caused by the donation or related medical examinations;
- b) the payment of justified expenses for legal medical services or technical services related to the donation. Living organ donors benefit from a mandatory lifetime health insurance policy, financed from the state budget.

(21)The medical-sanitary institution ensures the transport of the deceased donor from whom organs for transplantation were taken."

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

Law no. 42/2008 on the transplantation of human organs, tissues and cells, in this regard, has the following provisions:

Article 15 Conditions for harvesting from a living donor: "(2) The harvesting of organs, tissues and cells may be carried out from living persons, in respect of whom a judicial protection measure has not been instituted, only in case of their written, free, prior and express consent in the case of organ harvesting, the authorization of the independent approval commission being also required."

Article 16. Transplantation conditions: "(1) Transplantation shall be performed only for therapeutic purposes if there is no alternative therapeutic method of

comparable efficacy. The transplant is to be performed with the written consent of the recipient after he has been informed of any risks and consequences.

(2) In the case of minors or persons in respect of whom the judicial protection measure is instituted in the form of guardianship, the consent shall be given by the parents or, as the case may be, by their legal representative under the law.

(2¹) If the recipient is granted judicial protection in the form of temporary protection or guardianship, and the recipient's condition does not allow him to make an informed personal decision on the transplant on his own, the provisional guardian or curator shall assist the recipient in accordance with the law.

(3) If the recipient is unable to express his/her consent in writing due to objective circumstances and the family cannot be contacted in due time, and the delay would inevitably lead to the death of the patient, the transplant shall be performed without the consent of the recipient."

Article 19. Protection of persons incapable of expressing consent to the removal of organs, tissues or cells:

"(1) No organs, tissues or cells may be taken from a person who does not have the capacity to express consent; The exception is the removal of tissues or regenerative cells. In this case, the sampling will be authorized by the Independent Approval Commission, with the agreement of the legal representatives of the donor or of the guardianship authority, provided that the donation will be for the benefit of the person with whom the donor is related in the first degree (for the minor donor, these are the brother, sister), and the procedure in cause carries minimal risk to the donor.

(2) The removal of tissues or regenerative cells from minors may be done only with the consent of the guardianship authority or of each of the minor's legal representatives.

(3) The refusal written, verbal or in any other way of the minor shall prevent any sampling."

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)**);

A Cooperation Agreement on combating trafficking in human beings for the purpose of organ or tissue harvesting was concluded between the Ministry of Health of the Republic of Moldova and the Ministry of Internal Affairs of the Republic of Moldova on May 11, 2012, the pre-world purpose of which is to prevent trafficking in human beings for the purpose of organ, tissue and cell harvesting.

Based on this agreement, the Transplant Agency and the Center for Combating Trafficking in Persons exchange information. At the same time, the Transplant Agency notifies the Center of the requests (verbal, written) received from citizens or appeared on social media regarding proposals for the sale of organs.

- b. Which legislative or other structured measures have been taken to set up or ensure:
- the existence of a transparent domestic system for the transplantation of human organs (**Article 21 para. 1 letter (a)**);

Law no. 42/2008 on the transplantation of human organs, tissues and cells, establishes:

Article 4: "(1) The Transplant Agency, hereinafter referred to as the Agency, is a public institution with the status of a legal person, subordinated to the Ministry of Health, which carries out the national policies and programs for the transplantation of human organs, tissues and cells, ensuring equal access to transplant services. The Agency is responsible for organising and

Supervision of all transplant activities at national level, including:

- a) donation, removal and transplantation of organs, tissues and cells;
- b) drawing up and maintaining the waiting lists of the recipients;
- c) drawing up and maintaining the Register of organ donors;
- d) the distribution of organs, tissues or cells;
- e) the exchange and transport of organs, tissues and cells at national and international level;
- f) selection of transplant institutions and teams;
- g) ensuring the implementation of quality and safety standards regarding organs, tissues and cells;
- h) ensuring the traceability of all organs, tissues and cells;
- i) monitoring of transplant procedures;
- j) training the medical staff and informing the general public on transplant issues."

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

The equitable access of patients to transplant services is one of the basic principles provided by Article 3 letter f) of Law no. 42/2008 on the transplantation of human organs, tissues and cells:

"equitable access of patients to transplant services."

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

The Cooperation Agreement on combating trafficking in human beings for the purpose of organ or tissue harvesting of 11 May 2012, the pre-world purpose of which is to prevent trafficking in human beings for the purpose of organ, tissue and cell harvesting.

Based on this agreement, the Transplant Agency and the Center for Combating Trafficking in Human Beings exchange information. At the same time, the Transplant Agency notifies the Center of the requests (verbal, written) received from citizens or appeared on social media regarding proposals for the sale of organs.

- 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**);

1. Organization and conduct of the annual Round Tables by the Transplant Agency with transplant coordinators and medical-surgical transplant teams within the medical-sanitary institutions authorized to carry out pre-transplant activities with the generic "Communication and promotion of the altruistic image of organ, tissue and human cell donation".

2. The Transplant Agency, in cooperation with TAIEX (Technical Assistance and Information Exchange Instrument of the European Commission), organized on February 21-25, 2022, the Expertise Mission on the analysis of educational programs for high school students on organ/tissue/cell donation and transplantation. Thus, within the Transplant Agency, the introduction of the notion of bioethics, topics regarding the donation and transplantation of human organs, tissues and cells, organ trafficking, In Vitro Fertilization (IVF) in the Curriculum of the optional discipline "Health Education" was reported and discussed with TAIEX experts.

The purpose of the mission was to provide the evaluation of the informational support for teachers developed on the dimensions of Health Education regarding the donation and transplantation of organs/tissues/cells in the high school of the Republic of Moldova.

3. Within the framework of the Expert Mission, the following were organised:

a) the visit of TAIEX experts and representatives of the Transplant Agency to the EU Delegation to the Republic of Moldova, and the meeting with Mr. Jānis MAŽEIKS, Head of the EU Delegation for the Development of the Relationship and Partnership between the European Union and the Republic of Moldova in the field of School Health Policy;

b) the information visit of TAIEX experts and representatives of the Transplant Agency and the meeting with officials, the state secretary of the Ministry of Health;

c) the visit of TAIEX experts and representatives of the Transplant Agency to the Directorate of General Education, Ministry of Education and Research and discussions on the achievements and prospects of educational policies on the dimension of health education (in the field of transplantation and organ trafficking);

d) visits of TAIEX experts, representatives of the Transplant Agency and the Ministry of Education and Research to the "Liviu Deleanu" Theoretical High School, Chisinau and to the "Ion Creangă" Theoretical High School, Cuizăuca village, Rezina and participation in the Health Education lessons on the theme: Introduction to Bioethics. General notions regarding transplantation, organ trafficking, In Vitro Fertilization (IVF) for the purpose of:

- presentation of the experience of health education among high school students (urban and rural environment);
- exchange of information for teachers on the dimensions of bioethics education in the Netherlands, the Kingdom of Spain and the French Republic, presented by TAIEX experts.

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

1. Promotion with the help of promotional materials (flyers and brochures);
2. Promotion through events;
3. Promotion through Radio or TV;
4. Promotion through Social Media;
5. Informing patients, civil societies upon request, by phone or email.

- 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**);

The Criminal Code no. 985/2002, Article 213¹ establishes: "Advertising for the purpose of illegally obtaining human organs, tissues and cells or for their illicit donation: advertising for the purpose of illegally obtaining human organs, tissues and/or cells, as well as advertising or media coverage of advertisements for the illicit donation of human organs, tissues and/or cells shall be punished with a fine of 500 to 750 conventional units or with unpaid work for the benefit of the community from 180 to 240 hours, with a fine, applied to the legal person, in the amount of 1300 to 1600 conventional units."

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)**).

Center for Combating Trafficking in Human Beings

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

1. The national hotline La Strada: 0 800 77777 - free of charge from anywhere in the Republic of Moldova.+373 22 233 309 for calls from abroad. Skype address: Consultant 080077777
2. Child phone: 116 111. E-mail address: telefonul.copilului@social.gov.md
Website: <https://telefonulcopilului.md/>
3. Call Centre of the Ministry of Foreign Affairs and European Integration:
0 80 80 090 990 from the Republic of Moldova + 373 22 690 990 from abroad.
4. Ministry of Labour, Social Protection and Family: +373 22 269 300
National Coordination Unit of the National Referral System for protection and assistance to victims and potential victims of trafficking in human beings: +373 22 727 274
5. Moldovan citizens in difficulty in the Russian Federation can free legal information and assistance from the Integration Centre "Migration and Law" by calling the number: *926-539-13-30 * from Moldova - 007; from Russia - 8.
6. Hotline on the left part of the Dniester: 0 800 88888
7. "Green Anti-Trafficking Hotline: 0 699 99 021 antitrafic@procuratura.md.

IV. PROSECUTION OF PERPETRATORS OF TRAFFICKING IN HUMAN ORGANS

Question 5: Criminal Law offences

Not relevant to the competence of the Transplant Agency.

- a. Please indicate whether the intentional conducts in the box below are considered criminal offences in internal law.
- b. Do the offences in your internal laws require intentional conduct? If no, please provide information.
- c. Please highlight whether there are any other offences not included in the box below that involves trafficking in human organs in your country? Please provide their definitions and specify in which act these are included;
- d. According to the explanatory report para 29 it is left open for Parties to decide whether to apply Article 4, paragraph 1, Articles 5, 7 and 9 to the donor and/or the recipient. Please specify whether your internal law criminalize donors and/or the recipients for these criminal offences. Please explain the reasoning behind the regulation.

Article 4 – Illicit removal of human organs

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

a where the removal is performed without the free, informed and specific consent of the living or deceased donor, or, in the case of the deceased donor, without the removal being authorised under its domestic law;

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

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

(...)

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

Each Party shall take the necessary legislative and other measures to establish as a criminal offence under its domestic law, when committed intentionally, the use of illicitly removed organs, as described in Article 4, paragraph 1, for purposes of implantation or other purposes than implantation.

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

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

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

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

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

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

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

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

Article 9 – Aiding or abetting and attempt

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

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

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

Question 6: Jurisdiction

Not relevant to the competence of the Transplant Agency.

- 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**).
- 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.

Question 7: Corporate liability

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

Law no. 42/2008 on the transplantation of human organs, tissues and cells provides for the liability of the legal entity:

Article 9³ "(1) The Ministry of Health, at the proposal of the Transplantation Agency, shall suspend the order of the authorization if the establishment does not comply with the authorization criteria established by this Law. The suspension of the order on authorization shall be carried out only for activities that do not meet the authorization criteria."

Article 31: "(1) If the health of the donor or recipient has been impaired due to failure to comply with the legal standards, conditions and modalities for the collection and transplantation of organs, tissues and/or cells, the medical institution concerned shall be liable to the persons nominated in accordance with the law.

(2) In case of non-compliance with the requirements of this Act and other normative acts, physicians and other persons involved in the process of authorization, approval, donation and transplantation of human organs, tissues and cells shall be liable in accordance with the law."

In cases when the unlawful actions of legal persons are qualified under Articles 158, 165, 206 and 213¹ of the Criminal Code, they are punishable by imprisonment with deprivation of the right to hold certain positions or to perform certain activity, with a fine, with deprivation of the right to perform certain activity or with liquidation 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**);

Article 28 para. (2) of the Law no. 42/2008 on the transplantation of human organs, tissues and cells, states that "Trafficking in human organs, tissues and cells is a criminal offense and is punishable under criminal law.

- 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**).

Not relevant to the competence of the Transplant Agency.

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**).

Not relevant to the competence of the Transplant Agency.

Question 10: Investigations and criminal measures

Not relevant to the competence of the Transplant Agency.

- 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**).
- b. Please describe which circumstances or other measures have been taken to ensure effective criminal investigation and prosecution of offences established in accordance with the Convention (e.g. carrying out financial investigations, the use of covert operations, other special investigative techniques (**Article 16**)).

Question 11: Measures of protection for the victim

Not relevant to the competence of the Transplant Agency.

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

V. PREVENTION OF AND COMBAT AGAINST TRAFFICKING IN HUMAN ORGANS

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

The quality requirements and assurance of the transplantation system are transposed in the Law No 42/2008 on transplantation of human organs, tissues and cells:

- 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**)

Article 4: "(1) The Transplantation Agency, hereinafter referred to as the Agency, is a public institution with the status of a legal person, subordinated to the Ministry of Health, which implements national policies and programs for the transplantation of human organs, tissues and cells, ensuring patients equal access to transplantation services. The Agency is responsible for organizing and supervision of all transplantation activities at national level, including:

- (a) the donation, procurement and transplantation of organs, tissues and cells;
- b) establishing and maintaining waiting lists of recipients;
- c) establishment and maintenance of the Organ Donor Register;
- (d) distribution of organs, tissues or cells;
- e) the exchange and transportation of organs, tissues and cells nationally and internationally;
- f) selection of transplant institutions and teams;
- g) ensuring the implementation of quality and safety standards with regard to organs, tissues and cells
- h) ensuring traceability of all organs, tissues and cells
- i) monitoring transplantation procedures;
- j) training medical personnel and informing the general public on transplantation issues.

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

Article 3: "The basic principles in the field of transplantation are:

- (f) equitable patient access to transplantation services."

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

Based on the Agreement between the Ministry of Health of the Republic of Moldova and the Ministry of Internal Affairs of the Republic of Moldova on combating trafficking in human beings for the purpose of removal of organs or tissues, of May 11, 2012, the Transplant Agency and the Centre for Combating Trafficking in Human Beings exchange information.

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

Article 27: "(4) The popularization of the need for transplantation of organs, tissues and/or cells for the purpose of proposing or obtaining financial profit or other corresponding advantage shall be prohibited.

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

- information for healthcare professionals and relevant officials (including police, legal professionals in the prevention of and combat against trafficking in human organs?

Article 31: "(1) If the health of the donor or recipient has been impaired due to failure to comply with the legal standards, conditions and modalities of organ, tissue and/or cell procurement and transplantation, the medical institution concerned shall be liable to the persons named in accordance with the law.

(2) In case of non-compliance with the requirements of this Act and other normative acts, physicians and other persons involved in the process of authorization, approval, donation and transplantation of human organs, tissues and cells shall be liable in accordance with the law."

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

In order to inform civil society in preventing and combating trafficking in human organs, advocacy components are organized.

- f. Which policies or strategies have been implemented to promote or conduct awareness-raising campaigns targeted at the general public where the focus is directed especially towards the risks and realities of the unlawfulness and dangers of trafficking in human organs?

1. TV broadcasts on Moldova 1, PRO TV, Prime, Canal3, Impact TV, Publika, etc., interviews in the mass media, as well as several radio broadcasts were organized;

2. An opinion poll was conducted among medical workers and the population on the perception of donation and transplantation;

3. Annual marking (on the second Saturday in October) of the European Day of Organ Donation and Transplantation.

- Please describe the material used for the campaign/programme and its dissemination.

- Press releases;
 - Television broadcasts;
 - Information brochures
- 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**);
1. The impact of the trial companies, press releases are relatively satisfactory.
 2. The Transplant Agency is planning to run a promotional company to mark the annual European Day of Donation and Transplantation.
- On the occasion of this event, one of the activities that we plan to carry out is to raise the awareness of the society on ensuring the protection of the rights of donors and recipients of human organs, tissues and cells, facilitating the transplantation of organs, tissues and cells, contributing to saving human life or considerably improving its quality, as well as to prevent the commercialization of human body parts.

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.

Transplant Agency of Moldova

- **Body/agency responsible for collecting the replies:**

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