COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

T-THO (2023) CPQ

GENERAL OVERVIEW QUESTIONNAIRE

COUNTRY PROFILE QUESTIONAIRE SLOVENIA

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 Juni 2024** (**organtrafficking@coe.int**)

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

TABLE OF CONTENTS

I. INTRODUCTION 3

II. PRELIMINARY REMARKS 4

III. GENERAL LEGAL FRAMEWORK AND ALIGNMENT OF THE CONVENTION 5

Question 1: Non-discrimination 5

Question 2: Overview of the implementation 5

Question 3: National co-operation and information exchange 6

Question 4: International cooperation 9

IV. PROSECUTION OF PERPETRATORS OF TRAFFICKING IN HUMAN ORGANS 10

Question 5: Criminal Law offences 10

Question 6: Jurisdiction 12

Question 7: Corporate liability 13

Question 8: Sanctions and measures 14

Question 9: Aggravating Circumstances 15

Question 10: Investigations and criminal measures 15

Question 11: Measures of protection for the victim 16

V. PREVENTION OF AND COMBAT AGAINST TRAFFICKING IN HUMAN ORGANS .. 21

Question 12: Ensure quality and safety requirements for the transplantation system 21

VI. INFORMATION 23

I. INTRODUCTION

1. The Council of Europe Convention against Trafficking in Human Organs[1] (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[2].*

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.

From the point of view of criminal law, we can explain that discrimination in certain circumstances can constitute a criminal offence. Namely, Article 131 of the Criminal Code (Official Gazette of the RS, Nos. 50/12 – UPB2, 54/15, 6/16 – UPB2p, 38/16, 27/17, 23/20, 91/20, 95/21, 186/21, 105/22 – ZZNŠPP and 16/23) determines a criminal offence of "violation of equality" which can be committed by whoever, who due to differences in respect of nationality, race, skin colour, religion, ethnic roots, gender, language, political or other beliefs, sexual orientation, financial situation, birth, genetic heritage, education, social position or any other circumstance deprives or restrains another person of any human right or freedom recognised by the international community or laid down by the Constitution or the statute, or grants another person a special privilege or advantage on the basis of such discrimination. For this criminal offence a fine or imprisonment for not more than one year in prescribed.

If a criminal offence of "violation of equality" is committed by an official through the abuse of office or official authority, such an official shall be sentenced to imprisonment for not more than three years.

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;

   Law on the Ratification of the Council of Europe Convention against Trafficking in Human Organs (2022), Criminal Code (as amended by the Law on Amendments to the Criminal Code, Official Gazette of the RS, No. 186/21) with Article 181.a, Act on the Removal and Transplantation of Human Body Parts for Treatment (56/2015-ZPPDCT) from the 2015.

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;

   The action plan/strategy is under preparation; cooperation with the Ministry of Health and other stakeholders is necessary.

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.

   Under preparation

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):

  Yes, in the Law on the Ratification of the Council of Europe Convention against Trafficking in Human Organs (2022); new criminal offence of “Trafficking in human body parts, germ cells, blood and blood components” – Article 181.a of the Criminal Code;
- "human organ" (Article 2) –

  Human Body Parts for Treatment (ZPPDCT); new criminal offence of “Trafficking in human body parts, germ cells, blood and blood components” – Article 181.a of the Criminal Code;
- "financial gain or comparable benefit" (Article 4)?

  Payment or other benefits; new criminal offence of “Trafficking in human body parts, germ cells, blood and blood components” – Article 181.a of the Criminal Code.

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”?

   56/2015 ZPPDČT: In principle, the term salary compensation exist in the law:
   Article 4 (Principles for donations)

   (1) Donation is based on the principles of voluntariness, gratuitousness and altruism, according to which it is not permitted to give or receive remuneration or other pecuniary or non-pecuniary benefits for the body parts removed.

   (2) Notwithstanding the preceding paragraph, the payment of medical benefits and salary compensation to the donor during a temporary absence from work and the reimbursement of travelling expenses shall be permitted in accordance with the regulations in the field of health care and health insurance.

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?

   56/2015 - ZPPDČT: Article 6

   (Persons whose body parts may be removed)

   (1) Body parts may only be removed from a person who has reached the age of 18, provided that they are capable of judgement at the time of removal.

   (2) Notwithstanding the preceding paragraph, body parts that are to be reconstructed may also be removed from persons under the age of 18 or persons lacking the capacity of judgement for specially justified reasons if the transplantation is from persons with whom a genetic, familial or emotional relationship exists.

   (3) The prior written consent of the Ethics Committee for Transplantations is required for removal in accordance with the above paragraph.

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)**)

Action plan/strategy with a platform of cooperation of responsible institutions is currently under preparation.

In order to implement Article 4 of the Act on the Ratification of the Council of Europe Convention on Action against Trafficking in Human Organs (Official Gazette of the Republic of Slovenia - International Treaties, No. 5/22), the Government of the Republic of Slovenia has established the Working Group for the Implementation of the Council of Europe Convention against Trafficking in Human Organs.

The tasks of the working group are as follows:

- to draw up an action plan for the implementation of the Convention on Action against Trafficking in Human Organs,
- develop and adopt a plan for training, awareness-raising and co-operation with the Board of Parties at the Council of Europe,
- ensure the implementation of Article 17 of the Convention, which relates to international co-operation and measures for co-operation and data exchange,
- supporting the national contact points at the Institute of the Republic of Slovenia for Organ and Tissue Transplantation, Slovenija transplant for the exchange of information on trafficking with human organs,
- monitoring and coordinating the implementation of the Convention.

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)**);

Since 1998, was established a donor network in the country to connect of all donor hospitals under the control of the public organisation Slovenija Transplant, which has been operating since 2022 independently.

Slovenija Transplant takes care of:

a) the efficiency of operation and implementation in the field of organ donation,
b) coordination of all units involved in the activity,
c) cooperating on the international level to reach the best match between donors and recipients, to cover urgent cases, to benchmark,
d) control of the activities, transparency, recording of activities under traceability principle,
e) ensuring quality and safety in the procurement of organs based on characterisation,
f) organisation and implementation of biovigilance,
g) presentation and reporting of activities to the public,
h) development of an educational strategy and provision of training in the donation programme for coordinators or other employees in all phases of the donation programme, from procurement to removal of organs and tissues,
i) for the protection of personal data under GDPR and national legislation, and the anonymity of donors and recipients,
j) cooperation in the development of activities and the introduction of innovations,
k) maintaining registers of donors, recipients and declared persons for donation,
l) publishing results in the field of donation and transplantation, expanding and maintaining the central information system for transplantation activities and ensuring additions to the register for bone products. this includes the

organisation of bone marrow donors, cooperation with related national and transnational systems in the field of transplantation, ensuring the principles of ethics, professionalism and compliance with national and EU legislation.

- equitable access to transplantation services for patients (**Article 21 para. 1 Letter (b)**);
  in practice and legally defined, the rule of equality of everyone's access to transplant treatment is established, ZPPDČT Article 18.
- adequate collection, analysis and exchange of information related to the offences covered by the Convention **(Article 21 para. 1 letter (c));**
  Action plan and platform is under preparation.

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**);
In co-operation with the Ministry of Health, will be prepared:
   a) a platform for the institutions involved in notification and acting when needed,
   b) method of notification or exchange of information between them,
   c) indication of the names, telephone numbers and e-mail addresses of the persons responsible for taking action.

We are negotiating with the Medical Chambre and the Medical Association to amend the Code of Ethics for Doctors. We will also ask Nurse and Midwives Association of Slovenia to participate and prepare a kind of code, which will oblige healthcare staff to report suspected cases. A similar agreement will be required with the other profiles involved.

If grounds exist for the suspicion that a criminal offence prosecutable *ex officio* has been committed, the police takes the necessary steps to trace the perpetrator of the criminal offence, to prevent that the perpetrator or the participant in the criminal offence goes into hiding or flees, to detect and secure the traces of the criminal offence and the objects which may be of value as evidence, and to collect all information that might be useful for the successful conduct of criminal proceedings. In order to carry out those tasks, the police may seek the necessary information from the persons, inspect the means of transport, passengers and luggage, restrict movement within a specific area for the urgently required period of time, take the necessary steps to establish the identify of persons and objects, send out a wanted circular for persons and objects; in the presence of the responsible person, conduct a search of certain facilities and premises of companies and other legal persons and inspect their documentation, and undertake any other necessary measures.

The main right and the main duty of state prosecutors is the prosecution of perpetrators of criminal offences. They have the jurisdiction: to take the necessary steps associated with the uncovering of criminal offences, the pursuit of perpetrators and the directing of pre-trial proceedings; to request that an investigation be undertaken; to file and represent indictment or motion of indictment before the competent court; to file appeals against court decisions that have not yet become final and apply extraordinary legal remedies against final court decisions.

d. Please describe how campaigns about the unlawfulness and dangers of trafficking in human organs are promoted ((**Article 21, para. 2 letter (b)**).
We have not run any specific campaigns, but this aspect of transplant medicine is covered in a completely open and informative way in our training courses and informative presentations through traditional and modern media.

The topic is part of the training programme on ethical issues in the field of transplant medicine at the Faculty of Medicine in Maribor and at the Faculty of Health in Ljubljana. It has also been regularly discussed for more than 20 years in many media interviews and scientific articles on a highly functional system in Slovenia as the best prevention; organ trafficking was also presented at the symposium on ethics at the University of Ljubljana for health care personnel and other participants. At the aforementioned symposium, the Convention of Santiago de Compostela was also presented and the requirements it entails that it is absolutely necessary to involve medical personnel to report suspicious cases.

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**).
56/2015 ZPPDČT Article 4

(Principles for donations)

(3) It is prohibited to advertise the need for body parts and the availability of body parts if the purpose of the advertisement is to offer or obtain a profit or similar benefits.

Article 181.a (criminal offence of "Trafficking in human body parts, germ cells, blood and blood components"), Paragraphs 1 and 2 of the Criminal Code:

"(1) Whoever, in order to obtain payment or other material gain for himself, herself or another person, advertises the availability or need for parts of the human body or persuades or recruits anyone as a donor or recipient of human body parts, or otherwise serves as an agent in the provision of body parts of living or dead persons for transplantation, shall be sentenced to imprisonment for not more than five years.

(2) Whoever, in order to obtain payment or other material gain for himself, herself or another person, advertises the availability or need for germ cells, blood and blood components or persuades or recruits anyone as a donor or recipient of germ cells, blood or blood components, or otherwise serves as an agent in the provision of germ cells, blood or blood components, shall be punished to the same extent as in the preceding paragraph.".

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)**).
NETTA, within the framework of EDQM, Council of Europe, connects national delegates to report cases or exchange information. Slovenia has its own representative in this group, who is a member of Slovenia Transplant.

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

They will be defined in the action plan and cooperation platform.

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 Code, Article 181.a (criminal offence of "Trafficking in human body parts, germ cells, blood and blood components"):
"(1) Whoever, in order to obtain payment or other material gain for himself, herself or another person, advertises the availability or need for parts of the human body or persuades or recruits anyone as a donor or recipient of human body parts, or otherwise serves as an agent in the provision of body parts of living or dead persons for transplantation, shall be sentenced to imprisonment for not more than five years.

(2) Whoever, in order to obtain payment or other material gain for himself, herself or another person, advertises the availability or need for germ cells, blood and blood components or persuades or recruits anyone as a donor or recipient of germ cells, blood or blood components, or otherwise serves as an agent in the provision of germ cells, blood or blood components, shall be punished to the same extent as in the preceding paragraph.

(3) Whoever removes or obtains a removed part of a human body, germ cells, blood or blood components for which the donor receives payment or other material gain, whoever illegally disposes of the removed human body part, germ cells, blood or blood components or uses or a human body, its parts, blood or blood components with a view to gaining material gain for himself, herself or another person, shall be punished to the same extent as in paragraph one of this Article.

(4) Whoever prepares, preserves, stores, transports, transfers, receives, imports or exports parts of the human body, germ cells, blood or blood components taken in contravention of regulations in the field of obtaining and transplantation of parts of the human body, germ cells, blood, or blood components for the purposes of medical treatment.

(5) If an offence referred to in paragraph one, two, three or four of this Article is committed by a person through the abuse of his or her position, or if an offence has been committed within a criminal organisation, the perpetrator shall be sentenced to imprisonment between one and five years.

(6) If the commission of an offence referred to in paragraphs one, two, three and five of this Article results in a particularly serious bodily injury or in a corresponding impairment of health of at least one person, or if an offence has been committed against a minor or other vulnerable person, the perpetrator shall be sentenced to imprisonment between one and eight years.

(7) If the commission of an offence referred to in paragraphs one, two, three or five of this Article results in the death of one or more persons, the perpetrator shall be sentenced to imprisonment between one and fifteen years.".

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

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.
In our legislation, we do not expose donors and recipients.
As follows from Article 181.a of the Criminal Code, the act of the donor and recipient is not criminalized.

***Article 4* – Illicit removal of human organs**

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

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

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

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

(…)

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

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

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

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

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

removal or implantation takes place under the circumstances described in Article 4, paragraph 1, or Article 5 and where appropriate Article 4, paragraph 4 or Article 6.

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

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

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

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

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

Article 9 – Aiding or abetting and attempt

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

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

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

Question 6: Jurisdiction

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

Criminal Code, Article 10:

"(1) The Criminal Code of the Republic of Slovenia shall apply to any person who commits a criminal offense in Slovenia's territory.

(2) The Criminal Code of the Republic of Slovenia shall also apply to anyone who commits a criminal offence on a domestic vessel regardless of its location at the time of the commission of the offence.

(3) The Criminal Code of the Republic of Slovenia shall also apply to any one who commits a criminal offence on a domestic civil aircraft in flight or on a domestic military aircraft regardless of its location at the time of the committing of the offence."

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.

Criminal Code, Article 12:

"The Criminal Code of the Republic of Slovenia shall be applicable to any citizen of the Republic of Slovenia who commits any criminal offence abroad other than those specified in the preceding Article."

Criminal Code, Article 13:

(1) The Criminal Code of the Republic of Slovenia shall apply to any foreign citizen who has, in a foreign country, committed a criminal offence against the Republic of Slovenia or any of its citizens, even though the offences in question are not covered by Article 11 of this Criminal Code.

(2) The Criminal Code of the Republic of Slovenia shall also be applicable to any foreign citizen who has, in a foreign country, committed a criminal offence against a third country or any of its citizens if he has been apprehended in the territory of the Republic of Slovenia, but was not extradited to the foreign country. In such cases, the court shall not impose a sentence on the perpetrator heavier than the sentence prescribed by the law of the country, in which the offence was committed.

(3) The Criminal Code of the Republic of Slovenia shall be applicable to anyone who commits any criminal offence abroad which, under relevant international agreement(s) or general legal rules recognised by the international community, is subject to prosecution, regardless of the location where it was committed.

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.

Criminal Code, Article 42:

"(1) Criminal liability shall be imposed on a legal person for criminal offences which the perpetrator commits in name, on behalf or in favour of legal person, provided that the act which regulates liability of legal persons for criminal offences determines that the legal person is liable for the criminal offence in question.

(2) Criminal liability of legal persons shall not exclude liability of natural persons as perpetrators, instigators or aides in the same criminal offence.

(3) The act which regulates liability of legal persons for criminal offences shall determine the conditions for criminal liability of legal persons, sentences, admonitory sanctions or security measures, and legal consequences of the conviction for legal persons.".

The Law on Liability of Legal Persons for Criminal Offences (Article 25) stipulates that legal entities are also responsible for criminal offences from Chapter 20 of the Criminal Code (criminal acts against human health), namely for criminal offences under Articles 177 to 187 of the Criminal Code.

For a criminal act committed by the perpetrator in the name, at the expense or for the benefit of a legal entity, this legal entity is criminally liable:

1) if the committed criminal act is the execution of an illegal decision, order or approval of its management or supervisory bodies,
2) if its management or supervisory bodies influenced the perpetrator or enabled him to commit a criminal act,
3) if he obtains illegal financial gain from a criminal act or objects resulting from a criminal act,
4) if its management or supervisory bodies have abandoned their duty to supervise the legality of the conduct of their subordinate workers.

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**);

For natural persons (criminal sanctions) please see answer to question 5.a, where the text of Article 181.a of the Criminal Code is given.

According to the Law on Liability of Legal Persons for Criminal Offences the following penalties may be imposed for criminal offences by legal entities (criminal sanctions):

1) fine,
2) confiscation of property,
3) termination of the legal entity,
4) prohibition of disposal of securities whose holder is a legal entity.

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

Criminal Code, Article 14, Paragraph 1:

"(1) If, in cases referred to in Article 10 and indent 1 of Article 11 of this Criminal Code, the criminal procedure has been initiated or discontinued in a foreign country, the perpetrator may be prosecuted in the Republic of Slovenia only by permission of the Minister of Justice (hereinafter, the Minister) with the notice under which conditions the prosecution shall not violate double jeopardy.".

Criminal Code, Article 15:

"Any period of detention and any deprivation of liberty during the extradition procedure, or sentence of imprisonment served under the judgement of a foreign court, if it

becomes known at a later time, shall be credited towards the sentence imposed for the same criminal offence by the domestic court. If sentences are of different types, the domestic court shall decide on the appropriate method of deduction of the period served abroad. If the convicted person serves together more sentences than the sentence imposed on him in the judgement before the domestic court, the surplus shall deem him wrongfully convicted.".

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**).

Aggravating circumstances from Article 13, points a., b., c. and e. of the Convention are the constituent elements of aggravated criminal offence (please see answer to question 5.a, where the text of Article 181.a of the Criminal Code is given – relevant Paragraphs 5, 6 and 7).

The aggravating circumstance from Article 13, point d. of the Convention is dealt with in accordance with the General Part of the Criminal Code, which determines the general rules on sentencing – Article 49, Paragraph 4 of the Criminal Code:

"(4) In determining the sentence of a perpetrator of a criminal offence after he or she had already been convicted or had served his or her sentence, or after the implementation of his or her sentence had been barred by time, or after his or her sentence has been remitted (recidivism), the court shall pay particular attention to whether the earlier offence is of the same type as the new one, whether both offences were committed for the same motive and to the time which has elapsed since the former conviction or since the serving, withdrawing, remitting or barring of the sentence.".

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**).

The criminal offence of "Trafficking in human body parts, germ cells, blood and blood components" is investigated and its perpetrators are prosecuted *"ex officio"*.

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**)).

The police conduct a financial investigation in parallel with the investigation of a criminal offence that generates financial gain. According to the prison sentences prescribed for various forms of criminal offence from Article 181.a of the Criminal Code,

most of the covert operations and other special investigative techniques can also be used.

Question 11: Measures of protection for the victim

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

Criminal Procedure Act (official Gazette of the RS, Nos. 176/21 – Officially Consolidated Text, 96/22 – decision of the Constitutional Court, 2/23 – decision of the Constitutional Court and 89/23 – decision of the Constitutional Court), Article 65.a:

"(1) During the first contact, the competent authority in pre-trial or criminal proceedings shall inform the injured party of the method of providing information on:
- free medical, psychological and other assistance and support,
- assistance and measures pursuant to the act governing the prevention of domestic violence,
- protective and other measures for ensuring personal security under this Act and the act governing the protection of witnesses,
- the rights referred to in Article 65 of this Act and the right to free legal aid under the act governing free legal aid,
- the possibilities for compensation for damages under this Act and the act governing compensation to victims of crime,
- payment and reimbursement of the costs incurred by the injured party under Article 92 of this Act,
- the right to interpretation and translation under this Act,
- about the possibility of masking address and residence information,
- the contact person of the competent authority with whom he or she can communicate about his or her case,
- any other rights or benefits that may be relevant to the injured party.

(2) The amount and type of information referred to in the preceding paragraph shall depend on the personal characteristics and vulnerability of the injured party, his or her specific needs for protection, the nature, gravity and circumstances of the crime and the stage of pre-trial or criminal proceedings.

(3) The injured party shall have the right to receive information on the state of pre-trial or criminal proceedings and final judgments if he or she makes such a request or if so provided by law (paragraph six of Article 363). The competent authority in pre-trial or criminal proceedings shall inform the injured party of this right and duly record it in such a way that the police, the competent state prosecutor or the judge can become aware of it. Information on the state of pre-trial or criminal proceedings can be provided through websites.

(4) In order to ensure his or her personal security, the injured party may request to be informed of the release or escape of the suspect or accused person from house arrest or from pre-trial detention. He or she shall be informed of this right by the competent authority during the first contact in pre-trial or criminal proceedings, which shall be duly recorded. Such information may be refused if the suspect or accused person could be threatened as a result. The injured party shall be informed of the escape of the suspect or accused person from the house arrest by the police or the court, and of the release of the suspect or accused person from the house arrest by the court. The injured party

shall be informed of the escape or the release of the suspect or accused person from the detention by the prison referred to in Article 210 of this Act. The competent authority that received the request of the injured party shall inform the police, the court or the prison referred to in Article 210 of this Act of the request and provide the injured party's contact details. At the request of the injured party, the social work centre shall also be informed as indicated in this paragraph.

(5) During the first contact with the competent authority, the injured party who did not file a criminal complaint shall be requested to provide his or her personal name, day, month and year of birth, his or her personal registration number (hereinafter: EMŠO number), his or her address or residence and any other contact information. At the same time, the injured party shall be reminded of the duty to inform the competent authority of any change of address or residence (Article 66), and shall be informed of the right to assume prosecution (Articles 60, 62 and 433), which shall be duly recorded.

(6) The injured party may change the decision to receive the information referred to in paragraphs three and four of this Article at any time during the pre-trial and criminal proceedings, which shall be duly recorded by the competent authority in such a way that other competent authorities referred to in paragraphs three and four of this Article can become aware of it.

(7) The persons referred to in the second sentence of indent six of Article 144 of this Act shall be granted access to the assistance referred to in indents one and two of paragraph one of this Article even if they are not considered to be injured parties under this Act, if special needs for protection are demonstrated and if this is justified by the extent of damage caused to the injured party; access to the measures referred to in indent three of paragraph one of this Article shall be granted under the conditions specified in Article 141a or Article 240a of this Act.".

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**).
Please see answer to point a.

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)**);

Criminal Procedure Act, Article 59:

"(1) During the investigation, the injured party and the private prosecutor shall have the right to draw attention to all facts and present the evidence relevant for establishing that a criminal offence was committed, tracing its perpetrator and determining the pecuniary claims of the injured party and the prosecutor.

(2) At the main hearing, they shall be entitled to present evidence, pose questions to the accused person, witnesses and expert witnesses, and comment on and clarify their testimonies, as well as make other statements and motions.

(3) The injured party, the injured party as prosecutor and the private prosecutor shall be entitled to examine and copy case files and inspect the material evidence. This right may be withheld from the injured party until he or she has been examined as a witness.

(4) The investigating judge and the president of the panel must inform the injured party and the private prosecutor of the rights they have under paragraphs one, two and three of this Article.".

Criminal Procedure Act, Article 65:
"(1) A private prosecutor, an injured party and an injured party acting as prosecutor as well as their legal representatives, may also exercise their rights in the proceedings through a counsel.

(2) Ceased to be in force.

(3) In criminal proceedings conducted for crimes against sexual integrity under in Chapter XIX, crimes against marriage, family and youth under Chapter XXI of the Criminal Code, the crimes of enslavement under Article 112 and the criminal offence of trafficking in human beings under Article 113 of the Criminal Code, the injured party who is a minor must have, throughout the criminal proceedings, a counsel to take care of his or her rights, particularly regarding the protection of his or her integrity during the hearing before the court and the enforcement of pecuniary claims. Minors as victims of criminal offences referred to in the preceding sentence must also have a counsel during the hearing in pre-trial proceedings. Minors as victims who do not have a counsel shall be assigned such by the court *ex officio* from among the attorneys.

(4) In pre-trial and criminal proceedings, a minor as victim, an injured party who is a victim of violence or another injured party, if so required by the nature and gravity of the crime, his or her personal circumstances or the degree of threat to his or her life and body, may be accompanied by a person of his or her choosing, except if this is contrary to the interests of a successful implementation of pre-trial or criminal proceedings or the benefit of the injured party.

(5) The authority conducting pre-trial and criminal proceedings shall ensure that the injured party does not come into unwanted contact with the suspect or the accused person, unless such contact is indispensable for the successful implementation of pre-trial or criminal proceedings.".

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)**)
   Please see answer to point 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)**);
   In addition to the above-mentioned Article 65.a, Articles 141.a and 240.a of the Criminal Procedure Act are also relevant:
   Criminal Procedure Act, Article 141.a:

   "(1) The accused persons whose sentence may be reduced in certain circumstances (paragraph three of Article 294 of the Criminal Code) and the witnesses referred to in Article 240a of this Act whose life or body is under serious threat, shall be provided with a maximum personal security in the pre-trial procedure, as well as during and after the concluded criminal proceedings

(2) Pursuant to the provisions under paragraph three of this Article, on a motion of the accused person and/or witnesses referred to in the preceding paragraph, personal security shall also be provided to their close relatives (points 1 to 3 of paragraph one of Article 236) and other persons under threat

(3) The Act shall lay down the procedure and conditions for entering a protection programme and leaving the protection programme, the authorities responsible for requesting and ordering protection, urgent protection measures, measures under the protection programme, records and data protection, and the financing and supervision over the implementation of protection programmes.”.
Criminal Procedure Act, Article 240.a:

1) removal of all or particular data referred to in paragraph three of Article 240 of this Act from the criminal case file,
2) he marking of all or some of the data referred to in the preceding point as data not available to the public due to the interests of the proceedings,
3) issuing an order to the accused person, his or her defence counsel, the injured party or his or her legal representatives and counsels to keep particular facts or data secret,
4) the assignment of a pseudonym to the witness,
5) hearing the witness by means of technical equipment (a protective screen, sound-altering device, transmission of sound from separate premises and other similar technical protective means.

(2) Protective measures referred to in the preceding paragraph shall be ordered by a written ruling of the investigating judge upon the motion of the state prosecutor, the witness, the injured party, the accused person, his or her legal representatives and counsels or ex officio. The ruling may not contain the information that could lead to the disclosure of data that are the subject of the protective measure

(3) Prior to the issuing of the ruling on the use of protective measures, the investigating judge shall obtain from the witness the data referred to in paragraph three of Article 240 of this Act. If protective measures are ordered, the relevant data referred to in paragraph three of Article 240 of this Act shall be excluded from the case file immediately after the identification of the witness and before his or her hearing and shall be kept as data not available to the public due to the interests of the proceedings. Such data may only be inspected and used in the decision-making procedure on the appeal against the ruling referred to in the preceding paragraph, and in the case of identity verification pursuant to paragraph nine of this Article

(4) A ruling on the use of protective measures by means of which the identity of a witness is entirely concealed from the accused person and his or her defence counsel (anonymous witness) may only be issued by the investigating judge after a special hearing has been held, if he or she assesses:

1) that the life or body of a witness, the life or body of his or her close relative or persons proposed by the witness in accordance with the provisions of the act referred to in paragraph three of Article 141a of this Act is under serious threat,
2) that the testimony of the witness is important for the criminal proceedings,
3) that the witness demonstrates an adequate degree of credibility, and
4) that the interests of justice and the successful conduct of criminal proceedings outweigh the interests of the defence to become acquainted with the identity of the witness

(5) Only the indispensable court staff and security staff may be present at the hearing referred to in the preceding paragraph, in addition to the state prosecutor and the witness in respect of whom the protective measure has been requested. At the hearing, the investigating judge shall inspect the submitted documents and hear the witness and other persons who could provide information relevant for his or decision. The statements given by the witness or other people at this hearing shall be excluded from the case file immediately after the hearing and shall be kept as data not available to the public due to the interests of the proceedings. They may only be inspected and used in the decision-making procedure on the appeal against the ruling referred to in paragraph two and in the case of identity verification pursuant to paragraph nine of this Article. If the investigating judge establishes at the hearing that the protective measures referred to in paragraph one of this Article are not sufficient to ensure personal security, he or she may propose to the state prosecutor to make a motion in accordance with the provisions of the act referred to in paragraph three of Article 141a of this Act.

(6) If urgent protective measures or measures under the witness protection programme pursuant to the act referred to in paragraph three of Article 141a of this Act have already been ordered in respect of a certain witness prior to his or her hearing before the investigating judge, the investigating judge shall collect from the witness the data referred to in paragraph three of Article 240 of this Act at the hearing referred to in paragraph four of this Article and shall verify that it is indeed the same witness as the one in respect of whom the protective measures have been ordered. The findings shall be entered in the record. The data obtained shall be excluded from the case file immediately after the identification of the witness and before the hearing of the witness and shall be kept as data not available to the public due to the interests of the proceedings. With regard to such a witness, the investigating judge shall decide by a ruling on the concealment of his or her identity for the purposes of court proceedings after the assessment referred to in point 4 of paragraph four of this Article is made.

(7) During the hearing of a witness in respect of whom the measures referred to in paragraph one of this Article have been imposed, or in respect of whom the witness protection programme measures in accordance with the act referred to in paragraph three of Article 141a of this Act have been ordered, the investigating judge shall prohibit any questions whose answers may disclose protected information.

(8) In the period after the submission of the indictment to the court and before the end of the main hearing, the powers of the investigating judge referred to in this Article shall be exercised by the president of the panel

(9) If the witness in respect of whom the protective measure referred to in point 4 of paragraph one of this Article has been ordered, or in respect of whom the measure referred to in paragraph six of this Article has been ordered, is to be heard at the main hearing, the president of the panel shall be bound to verify it is indeed the same witness as the one with respect of whom the protective measure has been ordered. The findings shall be entered in the record.”.

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**).

“A person is entitled to free legal aid if his material situation and the material situation of his family would not be able to afford the costs of court proceedings or the costs of providing legal aid without harming his social situation and the social situation of his family.”.

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**).

According to Article 12 of the Criminal Code the Criminal Code of the Republic of Slovenia is applicable to any citizen of the Republic of Slovenia who commits any criminal offence abroad.

The Criminal Code of the Republic of Slovenia applies to any foreign citizen who has, in a foreign country, committed a criminal offence against the Republic of Slovenia or any of its citizens (Article 13).

It follows from the above that a Slovenian citizen can report a criminal offence, committed against him abroad, in Slovenia. it should be clarified that Slovenian legislation does not regulate the institution of "country of residence", but "citizenship" and "permanent" and "temporary" residence.

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;

Please see above-stated Article 65 of the Criminal Procedure Act.

(2) 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**)

Article 18 of the ZPPDČT, Rules on placing persons on the waiting list due to diseases involving the transplantation of parts of the human body.

Putting on the waiting list for treatment by transplanting parts of the human body, (availability of transplantation)
(1) The removed body parts of a deceased person must be used in accordance with the rules of the medical profession. In doing so, it is necessary to act according to the principles of equality and fair access to this method of treatment in accordance with the regulation governing the management of waiting lists of recipients. The waiting lists also contain information from Article 42 of this Act, information on meeting the criteria, special circumstances on the part of the recipient and temporary withdrawal from the waiting list. The data in the waiting lists are kept for five years after the transplant.

(2) The method of selecting patients for treatment by transplanting parts of the human body, the method of managing waiting lists, and the immunogenetic and medical criteria for allocation shall be prescribed by the Minister.

(3) In the case of concluding an agreement with a European organization for organ exchange, the provisions of the previous paragraph shall apply mutatis mutandis with regard to the method of selecting patients for transplant treatment, the method of managing waiting lists and the criteria for organ allocation.

b. Which legislative or other measures have been taken to ensure equitable access to transplantation services for patients? (**Article 21 para. 1 letter (b)**)
Rules on placing persons on the waiting list due to diseases involving the transplantation of parts of the human body based on the ZPPDČT 2015.

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))**

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)**
ZPPDČT 2015 Article 4 (Principles for donations)
(3) It is prohibited to advertise the need for body parts and the availability of body parts if the purpose of the advertisement is to offer or obtain a profit or similar benefits.

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?
The regulations for education are in preparation, linked to the ZPPDČT 2015 and the Tissues and Cells Act from 2007.

- information for civil society in the prevention of and combat against trafficking in human organs?
The regulations for education are in preparation, linked to the ZPPDČT 2015 and the Tissues and Cells Act from 2007 which will cover this aspect, too.

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?
Awareness-raising campaigns on organ donation are set out in the ZPPDČT and the Bylaw on Education, but there is no specifically defined education on the risk and reality of the occurrence of illegality and trafficking in human organs. We will supplement the Bylaw.

- Please describe the material used for the campaign/programme and its dissemination.
Prepared lectures describing the legislation, the Convention of Oviedo, the Convention of Santiago de Compostela, the Istanbul Declaration and various resolutions drawn up by the Council of Europe's Working Group on Organ Transplantation. The presentation includes a description of possible abuses and

complex preventive measures. The material is still being added to and it is planned to present the lecture at other secondary schools and universities for health professions.

- 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**);

  In relation to this topic, I can tell you that public confidence in the system of organising donor programmes, security and regulation in Slovenia has increased by 15% in the last ten years. Secondly, according to the study, the trust and recognition of Slovenija-Transplant on the part of medical professionals involved in the programme in terms of obtaining relevant information and the correct conduct of the donation activity is more than 90 percent of all those participating in the study. And last but not least, we had no cases of abuse or even bad news in the Slovenian media.

(3) 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 Health of the Republic of Slovenia

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

  - Institute of the Republic of Slovenia for Transplantation organs and tissues Slovenia transplant
  - Ministry of Justice of the Republic of Slovenia, Directorate for Punitive Law and Human Rights