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Strasbourg, 13 January 2025 T-THO (2024) LD

Committee of the Parties
Convention against Trafficking in Human Organs
(Santiago de Compostela Committee)

DRAFT LIST OF DECISIONS
5th Plenary meeting

Strasbourg and hybrid, 1-2 December 2024

Council of Europe
Agora building, room G01

The Committee of the Parties (hereinafter, CoP) to the Council of Europe Convention against trafficking in Human Organs (hereinafter, the Convention, the Santiago de Compostela Convention or THO Convention), meeting in Strasbourg, under the Chairmanship of Mr. Radovan Nikolić (Montenegro), took the following decisions:

1. Opening of the meeting

- **to take note** of the introductory and welcoming remarks by Mr Gianluca Esposito, Director General, Directorate General Human Rights and Rule of Law, who welcomed the representatives of the 14 State Parties present (out of 15) as well as the representatives from the Steering Committee on Human Rights and Biomedicine and Health (CD-BIO) and the Chair of the Network of National Focal Points on Travel for Transplantation (NETTA). Mr Esposito informed that the THO Convention entered into force in March 2018 and explained the status of play of the Convention:15 ratifications so far, including one non-Council of Europe (hereinafter, CoE) state (Costa Rica), and 13 signatures, including one non-CoE state (Chile). Moreover, he informed the importance of the meeting was two-fold: a) the adoption of the questionnaire of the 1st Monitoring round, which is focused on the Prevention and awareness mechanisms to counter THO; b) the preliminary draft Summary report of the responses received to the Country Profile Questionnaire to the Convention, which both illustrates the high degree of implementation of the Convention by the Parties in some areas and, without being

a monitoring exercise, provides support to the Parties in indicating areas where implementation has been achieved substantially, or where further work may be required. Finally, he also underlined the Secretariat's commitment to the work of the Committee and informed that next year activities will be enhanced by increasing the number of plenary meetings to 2 and to devise specific actions aimed at promoting the Convention.

- to **take note** of the introductory and welcoming remarks by the Chair, Mr Radovan Nikolić, who welcomed all the Parties and underlined his satisfaction for meeting them in person. He recalled that the main role of the CoP is both monitoring the implementation of the Convention and the collection, analysis and exchange of experiences and good practices between the Parties. Finally, Mr Nikolić, informed all participants of the passing of Professor Carlos María Romeo Casabona in August. He emphasised Prof. Romeo Casabona's expertise, which was crucial to the development of the Committee's work, along with his valuable contributions. In honor of his legacy, the Chair requested a moment of silence.

2. Adoption of the draft agenda

- to **adopt** both the agenda and the order of business of the meeting without amendments (the list of participants and the agenda appear in Appendices I and II respectively)

3. Information by the Chair and the Secretariat

- to **acknowledge** the List of Decisions of the 4rd Plenary meeting of the CoP THO (25-26 October 2023);

- to **welcome** the information provided by the Chair on both the activities undertaken since the last Plenary meeting as well as on the outcomes of the last CoP Bureau meeting held in Lisbon on 9-10 October 2024;

- to **take note** of the information provided by Dr. Oscar Alarcón-Jiménez, Executive Secretary to the CoP, who informed:

  a) that Chile signed the Convention on 27 November 2024, representing a significant milestone as it marks the continued expansion of the Convention across the Americas;

  b) on all the work carried out throughout 2024 within the CoP which includes *inter alia* the preliminary draft Summary report of the responses received to the Country Profile Questionnaire, the drafting of the monitoring questionnaire of the 1st Monitoring round, the launch of the website of the CoP, etc.

4. Exchange of Information / Tour de table

- at the invitation of the Chair, to **proceed** to a *tour de table* in order to provide an exchange of views on the recent developments and future perspectives, working methods and activities of the Parties (the Parties' presentations are enclosed as Appendix III).

5. Accession of new countries

- to **instruct** the Secretariat to draft a letter, to be signed by the Chair, inviting those signatories countries to encourage them to ratify the Convention;

- to **ensure** that cooperation between the CoE and the EU be enhanced;

- to **instruct** the Secretariat to explicitly invite EU representatives to participate in the forthcoming CoP's meetings and **encourage** the EU countries to join the Convention;

- to **encourage** the Secretariat's participation in the EU meetings to uphold the principles outlined in the THO Convention (such as ethical principles, nonprofit, etc.) within the EU legislation;

- to **advice** the state Parties, members of the European Union (hereinafter, the EU), who participated in the drafting process of the regulation on substances of human origine (SoHO)[1], to provide the Secretariat with the contact details of the EU secretariat;

- to **recall** that the Committee of Ministers tasked the ad-hoc Committee of Experts on Trafficking in Human Organs, Tissues and Cells (PC-TO) with the elaboration of a draft criminal law convention against trafficking in human organs, and, if appropriate, a draft additional protocol to the aforesaid draft criminal law convention against trafficking in human tissues and cells[2];

- to **instruct** the CoP's members to provide the Secretariat with the contact details of their homologues (within the Ministry of Justice, Ministry of Health or any other administration) in other CoE member States not Parties to the Convention, to be invited directly by the Secretariat in forthcoming plenary meetings;

6. Exchange of information, experiences and good practices

- to **have an exchange of views** with Ms Laurence Lwoff, Secretary of the Steering Committee on Human Rights in the fields of Biomedicine and Health Care, and Head of the Division on Human Rights and Biomedicine, who highlighted that the CDBIO is the committee responsible for overseeing the Oviedo Convention. Ms Lwoff also provided the following information:

    - that the Oviedo Convention has contributed with two fundamental principles to the THO Convention: a) free and informed consent, and b) the prohibition of financial gain;

    - while the CDBIO is not a criminal law committee, it remains actively engaged and vigilant in matters related to organ transplants and trafficking. The committee continues to closely monitor developments in these areas, particularly where challenges in implementation or gaps in existing legislation may arise. She emphasized that this vigilance is especially critical in relation to the prohibition of financial gain, for which the CDBIO has developed a Guide on the Prohibition of Profit (jointly prepared with the CD-P-TO and CDPTS). This guide addresses cross-cutting principles that are highly relevant in the context of combating organ trafficking;

    - the CDBIO operates under a Strategic Action Plan, which is currently being updated to cover the period 2026–2030. Within this framework, the issue of organ transplantation has been given significant attention, particularly in relation to innovation and emerging cell therapies. She underscored the importance of continuously monitoring well-established principles to ensure that evolving practices do not lead to their erosion. This is particularly critical for the prohibition of financial gain, which applies more broadly to tissues and cells than to organs, though vigilance in both areas remains essential;

    - other activities within her division, that are directly aligned with the work of the CoP, were also stressed. These include initiatives carried out under the Action Plan for Armenia, as well as the

[1] Mainly: blood, tissues and cells.
[2] By decisions of 6 July 2011 and 22–23 February 2012, respectively.

most recent one adopted by the CoE in Moldova. She informed that the division is currently implementing a cooperation project on human rights and biomedicine, with a focus on patient rights, including the rights of both transplant recipients and organ donors;

- potential joint efforts between CDBIO and the CoP in Armenia were emphasised, given that the country has signed but not yet ratified the Oviedo Convention, and is currently revising its legislation on organ transplantation. Ms Lwoff suggested that cooperation activities could serve as an ideal platform to raise awareness about the Convention and potentially advance steps toward its ratification. Additionally, he mentioned the possibility of a project in Georgia in 2025, pending final agreement on funding.

- to **thank** Ms Lwoff for this detailed report;

- to **instruct** the Secretariat to liaise with Ms Lwoff for promoting the Convention in Armenia and those other countries where the CDBIO has cooperation activities. Moreover, the Secretariat should actively engage in the drafting of Action Plans of CoE member states, ensuring that the principles and perspectives of the Convention are integrated into these initiatives. Additionally, the Secretariat should maintain close communication with national authorities in countries where these Action Plans are being implemented, fostering awareness and alignment with the Convention's objectives;

- to **encourage** Parties to consider making voluntary contributions to the CoE to support the development of a cooperation project on this topic.

- to **take note** of the presentation made by Dr Anna Pszenny, Chair of the Network of National Focal Points on Travel for Transplantation (NETTA), on the latest activities carried out by NETTA network, in particular the identification of: i) hotspots/places of unethical transplantation; ii) the profile of donors and recipients; and iii) the quality of transplantation and **hold** an exchange of views with her. Dr. Pszenny also informed the Parties that NETTA is currently cooperating with Istanbul Declaration Custodian Group and with the Donation and transplantation Institute from Barcelona;

- to **hear** that both NETTA is in the process of analysing the data of patient's transplantation abroad according to some algorithms and a publication will be delivered in 2025;

- to **strengthen** the cooperation with NETTA and instruct both Secretariats to enhance working together and involve NETTA in the drafting of the training on the Convention (organ trafficking) by introducing a part devoted to travel for transplantation;

- to **thank** Dr Pszenny for its availability to participate in the CoP and praise the NETTA for its excellent work so far;

7. Priorities of the Committee of the Parties and organisation of its future work

7.1 Country Profile Questionnaire

- to **instruct the Secretariat** that the answers received by each state Party to the Country Profile Questionnaire (hereinafter, CPQ) be published in the CoP's website (www.coe.int/organtrafficking) and **observe** that each state Party is kindly invited to update its own information;

- to **take note** of the state of play of the answers received to the CPQ and **encourage** those state Parties that did not answer so far (Albania and the Republic of Moldova) to provide their answers at their earlier convenience;

- to **invite** all those 12 signatory countries to the Santiago de Compostela Convention to voluntary fulfil the CPQ. Against this background, to **instruct** the Secretariat to draft a letter, to be signed by the Chair, inviting those signatory countries to both fulfil the CPQ and encourage them to ratify the Convention;

- to **take note** of the preliminary draft Summary report of the responses received to the CPQ, introduced by their authors (Mr Hugo Bonar and Prof. Asier Urruela Mora). These independent experts explained the CoP members the methodology followed for the drafting of the report, the three main areas in which the report is focused (the analysis of the legal framework, the prosecution and the prevention and the combating of THO to stop trafficking activities) and the recommendations given to the different countries;

- to **congratulate** the experts on their excellent work carried out in drafting the report **and have an exchange of views** with them about its content;

- on the basis of the presentations made by the experts, to carefully **review** the report and, if necessary, submit their written comments to the Secretariat by 28 February 2025. The Chair emphasised the importance of full participation from all state Parties in this process, as it represents the first outcome of the CoP, even though this report is not a monitoring report;

- to **encourage** state Parties that did not provide their answers to the CPQ (Moldova and Albania) to answer the CPQ before 28 February 2025 in order to ensure that the preliminary draft report could be finalised and adopted within the year 2025;

- to agree that:

  i) if these latter Parties fail to provide a valid reason for not submitting their responses on time, the summary report will be published without their contribution;
  ii) the previous situation (i) be clearly stated in the report;
  iii) francophone Parties be invited to submit any comments on **incorrect** French terminology within the report, if applicable.

- to **consider** that this exercise (Summary report of the responses received to the CPQ) may be replicated in the future once additional countries join the Convention, subject to agreement within the CoP;

7.2 Organ transplantation

- to **acknowledge** that Article 6 of the Convention addresses the implantation of organs outside of the domestic transplantation system or in violation of the fundamental principles of national transplantation laws;

- to **invite** the Parties to conduct a *tour de table* to gather their views on this issue and explore how the CoP can contribute to this matter;

- to **take note** that Portugal and France highlighted the lack of available data in their jurisdictions and proposed exploring with Europol and Eurojust whether such data exist;

- to **instruct** the Secretariat to liaise with France and Portugal to fine-tune this proposal for its submission at the forthcoming Bureau and then Plenary meeting;

- given that Parties were not prepared for this *tour de table*, to **invite** them to submit their specific comments and suggestions to the Secretariat in written no later than 4 April. These inputs will be compiled by the Secretariat and discussed and taken into consideration by the Bureau members in its further meeting;

- based on the Bureau discussion, to **inform** about this issue in a future CoP meeting;

7.3 1st Thematic monitoring report

a) Draft questionnaire

- to **take note** of the draft questionnaire of the 1st Monitoring round, which was discussed in detail and finetuned by the Bureau members during their Bureau meetings. The Bureau members agreed that the questionnaire may contain four key areas (1) Preventive measures for identifying and reporting cases of THO; 2) Data collection, analysis, and exchange of information; 3) Prevention and training; 4) Awareness raising;

- to **examine** in detail the draft questionnaire, analyse all the questions, hold a sound discussion on the issues included in the draft questionnaire, make some comments and amendments to certain questions, introduce new questions/proposals, assess whether the draft questionnaire was properly balanced and finally adopt the 1st Monitoring questionnaire;

b) Procedure to be followed

- to **emphasize** the importance of effective collaboration among all national authorities within a Party to ensure a consolidated response to this questionnaire;

- to **recall** that each Party is expected to submit to the Secretariat a consolidated response on behalf of its respective country. This will require the national contact point to coordinate with relevant ministries and authorities, consolidating their inputs to ensure the submission of an official and comprehensive response representing the country's position.

- to **acknowledge** the chronology of the 1st thematic monitoring round, as introduced by the Executive Secretary;

- to **take note** that the deadline for submitting answers to this 1st Monitoring questionnaire is 30 May 2025;

7.4 Data

- to **take note** that Article 25 of the Santiago de Compostela Convention establishes that the CoP shall also facilitate the collection, analysis and exchange of information, experience and good practice between States to improve their capacity to prevent and combat trafficking in human organs;

- in light of the above, to **invite** Parties to consider how they would like to proceed to fulfil the obligations under Article 25;

- following an exchange of views, to **identify** a certain number of topics that could contribute honouring Article 25 such as: drafting guidelines based on practitioners' experiences, facilitating the exchange of case-law, drafting good practices, identifying challenges faced by investigators, compiling the recommendations provided by judges, examining the legal frameworks of countries (within NETTA) for data's transmission, analysing GRETA reports, identifying any agency/ centres/ observatory or university that collect data on organ trafficking cases, etc. Moreover, beyond the data on organ transplantation obtained by NETTA from healthcare authorities, it would be essential to gather data from other sectors (e.g. law-enforcement) which may differ from the data provided by healthcare authorities;

- to **instruct** the Parties to examine whether, within their jurisdiction or elsewhere, there exists an entity that collects press releases related to organ trafficking;

- based on the information above, to **invite** Parties to submit their opinions and suggestions in writing to the Secretariat no later than 4 April. These inputs will be compiled by the Secretariat, discussed and taken into consideration by the Bureau members during its further meeting;

8. Possible activities

8.1 Curriculum on the Santiago de Compostela Convention Training

- to **take note** that training on the Convention is a priority for the CoP.

- to **invite** the Parties to submit to the Secretariat experts from different profiles willing to work on a *pro bono* basis in the drafting of a curriculum on the Convention;

- based on the information received, to **instruct** the secretariat to schedule a meeting with the experts involved and the HELP Secretariat to discuss about the structure of the curriculum, the recipients of this training (legal, health and law-enforcement authorities) and a possible calendar for the drafting of it;

- to **invite** NETTA in the drafting of this curriculum;

8.2 "International Day against organ trafficking"

- to **remind** that the date of the opening of the signature of the Convention (25 March) was adopted by the CoP as the official day against organ trafficking. The CoP agreed to submit this date to the Committee of Ministers;

- to **encourage** state Parties to implement any possible initiatives at the national level on that date to raise awareness of the Convention (press release, website, etc). Parties were requested to inform the Secretariat in advance (by 17 February) about their planned actions and will be asked to provide an update of these actions at the forthcoming Plenary meeting;

8.3 Activities to promote the Santiago de Compostela Convention

- to **emphasise** the importance of giving visibility to the Convention as a crucial action to be implemented as soon as possible to raise awareness of it. Moreover, Parties agreed that increasing visibility will undoubtedly encourage more countries to join the Convention, expanding its impact and reach while ensuring that the general public, stakeholders, and relevant institutions are well-informed about its provisions;

- to **support** the Bureau's idea of drafting a publication to give visibility of the Convention;

- to **take note** of the questions agreed by the Bureau members and to instruct the Secretariat to forward these questions to the Parties requesting them to provide the Secretariat with relevant information to be included in the publication/answers (by 3 February). The Bureau members will analyse the answers of this publication;

- as with other topics, to **take note** of the possibility of drafting a Model Law in collaboration with other international organisations, such as UNODC, on this issue. This was considered a very beneficial initiative as it provides valuable examples of good practices and legislations from various countries (not only European but from across the globe). However, a challenge remains in engaging third countries, as currently the CoP only includes Costa Rica. The Secretariat mentioned that it could reach out to UNODC and propose this initiative;

- to **consider** conducting onsite country visits on an annual basis in the framework of the Bureau meetings to avoid burden the budget. Following an invitation letter, these visits will take place in cooperation with the national authorities of the Party concerned, the member of the Santiago de Compostela Committee nominated by the latter, the relevant Council of Europe bodies and with the assistance of independent experts. These visits will allow to hold meetings with the relevant actors, collect additional information, clarify the responses to the questionnaire, and assess the practical implementation of adopted measures in-depth discussions with relevant professionals, government

officials, transplantation agencies, police, prosecutors, parliamentarians, other relevant actors and NGOs. The forthcoming Bureau meetings can be considered as pilot experiences. Based on the results, the Bureau will discuss in detail these onsite country visits and will provide the CoP a written proposal for adoption;

- to **consider** the possibility of organising of regional conferences to increase the visibility of the Convention and encourage more countries to join it. Any interested country in hosting this event should contact the Secretariat;

- to **consider** using social medial to increase the visibility of the Committee's activities and acknowledge the offer of the Spanish member to assist with this. Regarding this matter, the Secretariat reminded the Parties of the existing CoE regulations on social media and, in response to their repeated inquiries, informed the Parties that a consultation on a social media devoted to the Convention would be undertaken;

- to **instruct** the Secretariat to continue participating in the various CoE steering committee meetings and other bodies in order to promote the Convention;

8.4 National platform

- to **take note** of the detailed presentation provided by the Spanish representative, Ms. Escarlata Gutiérrez Mayo, on the Spanish experience in the National Platform (National Roundtable on organ trafficking). Ms Gutiérrez explain that the national Platform is a Working Group bringing together the main players involved in the prevention of organ trafficking in Spain. Created in November 2023, this successful initiative is coordinated by the Secretary of State
- for Justice of the Ministry of the Presidency, Justice and Relations with the Courts, in particular by herself. There are 3 major institutions involved (justice administration, health administration and State security force) along with academia. She continued explaining the main objective of this National Platform is to develop a protocol that coordinate the actions of hospitals and doctors with law enforcement and the judicial system when a suspected case of organ trafficking is detected. She informed this protocol is essential, as hospitals are the first point of detection. Therefore, communication channels should be established with the police, prosecutors, and the judiciary, while ensuring the protection of the rights of all involved;

- to **thank** the Spanish representative for this presentation, to recognise the importance of having protocols in place to guide healthcare professionals in both addressing and resolving any specific concern they may encounter and have an exchange of views with the Spanish representative on this National Platform;

9. Information points

9.1 Observer status to the CoP THO

- to **take note** that the CoP's Rules of Procedure (hereinafter, RoP) allow the figure of observers within the CoP. In particular, pursuant to paragraphs 4 and 5 of Article 24 of the Convention, representatives of relevant official bodies of the Parties and representatives of civil society, in particular of non-governmental organisations (NGOs), may be admitted as observers to the Santiago de Compostela Committee;

- to **consider** the questionnaire drafted by the Secretariat, **discuss** it and **adopt** it as a document to be sent to any entity willing to become observer to the CoP;

- to **instruct** the Secretariat to send the adopted questionnaire to possible observers raised by some representatives (Eurotransplant, Scandia transplant, Istanbul Custodian Group, etc.) for their fulfilling in case they would like to be granted with observer status at the CoP;

9.2 Events

- to **take note** of the following information:

  a) the Swiss representative, Dr Salome RYF, informed that her country stressed the need of joining the Santiago de Compostela Convention at the *High-Level Ministerial Conference on Organ Donation and Transplantation* held in Budapest (Hungary) held on 10-11 July 2024;

  b) the Executive Secretary provided information on the 14th session of the Working Group on Trafficking in Persons organised by UNODC in Vienna (8-9 July 2024), which focused on trafficking in persons for the removal of organs and related conducts. He thanked the efforts made by the Swiss delegation (composed by the Swiss representative at the CoP) to increase the visibility of the Santiago de Compostela Convention during the meeting but regretted that other state Parties having ratified the Convention did not make any reference to it. Based on the aforementioned information, the CoP:

  - **instructed** the Parties to further coordinate with their national homologues participating in UNODC meetings with a view to both enhance the visibility of the Santiago de Compostela Convention and encourage additional countries to join;
  - **welcomed** the proposal made by Belgium, and supported by France, to try to bring together Francophone countries within the UNODC to encourage their joining and/or accession to the Santiago de Compostela Convention, as has been done in the past to promote the MEDICRIME Convention;
  - **instructed** the Secretariat to distribute the meeting documentation among the CoP members;

  c) the Spanish representative, Ms Gutiérrez Mayo, participated online in the meeting of the Iberoamerican Network Council of Donation and Transplantation, where she promoted the Santiago de Compostela Convention;

  d) the Belgian representative, informed that the BENELUX will be holding a conference on human trafficking on 12 December 2024 entitled: "*La traite des êtres humains et les nouvelles technologies*", that gives the opportunity to encourage The Netherlands and Luxembourg to join the Convention;

- to **encourage** state Parties to inform the Secretariat of any relevant meetings related to organ trafficking they be aware of or notified in order to share this information with other CoP members;

10. Financing of the Committee of the Parties

- to **take note** of Article 23.5 of the Santiago de Compostela Convention, which refers to the financial contributions of contracting Parties that are not members of the Council of Europe ["*A contracting Party which is not a member of the Council of Europe shall contribute to the financing of the Committee of the Parties in a manner to be decided by the Committee of Ministers upon consultation of that Party*".]

- to **refer** Rule 23 of the Rules of Procedure, which stipulates that any contracting Party that is not a member of the CoE and having failed to pay all or a significant portion of its financial contribution to the Convention's budget for a period of one year shall no longer participate in the decision-making process;

- to **instruct** Costa Rica to contact the Secretariat;

11. Information Points

11.1 Website information

- to **welcome** the website of the CoP and **take note** of its structure, introduced by the Executive Secretary;

- to **instruct** the state Parties to provide the Secretariat by 24 March with the necessary information from their countries (country legislation, etc) which will be necessary to be published in the website;

11.2 Elections

- to **take note** that elections for the position of Chair, Vice-Chair and members of the Bureau will be held in the forthcoming Plenary meeting in 2025;

- to **observe** that those candidates willing to apply for any of the above positions is invited to inform the Secretariat in advance;

- to **acknowledge** that the mandate of the current Chair, Vice-Chair and members of the Bureau can be renewed;

12. Any other business

- to **encourage** the Parties to inform the Secretariat of any issues, suggestions for new initiatives or topics they may wish to raise during the Plenary meeting for potential inclusion and debate within the Bureau;

- to **consider** the Belgian proposal of organising a hearing (online) within the forthcoming Plenary meeting and inviting investigators or hospital staff from the United Kingdom, which have been dealing with cases of organ trafficking;

13. Dates of the next meetings

- to **take note** of the dates scheduled for both the forthcoming Bureau meetings in 2025 (possibly February 2025, April and July) and the plenary meeting (20-21 May 2025) and the unavailability of certain members to participate in the latter under the current proposed dates;

- to **instruct** the Secretariat to inform the Parties of the final dates of the forthcoming plenary meeting no later than 22 January.

APPENDIX III

TOUR DE TABLE - PRESENTATION OF THE PARTIES

1. REPLIES RECEIVED FROM THE PARTIES[3] (following the 5th CoP Plenary meeting)

	COUNTRY	Tour-de-table presentation in written	Answer received
1	**ALBANIA**		
2	**BELGIUM**	10/04/2025	
3	**COSTA RICA**		
4	**CROATIA**		
5	**CZECH REPUBLIC**		
6	**FRANCE**		
7	**LATVIA**	23/01/2025	
8	**MALTA**		
9	**MONTENEGRO**		
10	**NORWAY**	11/04/2025	
11	**PORTUGAL**		
12	**R. OF MOLDOVA**		
13	**SLOVENIA**		
14	**SPAIN**		
15	**SWITZERLAND**		

[3] E-mail sent by the Secretariat on 2 January 2025

ALBANIA / ALBANIE	Not present

BELGIUM / BELGIQUE	Contribution received on: 10/04/2025

Enquête, poursuite, condamnation :
Aucune enquête n'a encore été ouverte pour trafic d'organes en Belgique.

Compétence extraterritoriale des tribunaux belges :
Outre les bases de compétence active (auteur belge ou résident, voir art.6), passive (victime belge, voir art.10) et de compétence dérivée du droit international ou européen (art. 14/10), la Belgique a prévu, à l'article 14/6 du Titre préliminaire au Code de procédure pénale, une compétence élargie (pas de double incrimination, pas d'avis officiel de l'Etat étranger, pas de plainte de la victime, **mais** l'auteur doit être trouvé sur le sol belge au moment d'intenter les poursuites – voir définition de « trouvé en BE » à l'art.14/13),
dans les deux cas suivants:

a) en cas de traite des êtres humains prévue à l'article 433quinquies (qui vise explicitement la TEH à des fins d'exploitation par le prélèvement d'organe, de tissus ou de cellules), et

b) en cas d'infractions de trafic d'organes (prélèvement illégal, transplantation illégale, démarchage, corruption, acceptation, préparation, etc.) lorsque l'organe a été prélevé contre rémunération.

Si l'organe a été prélevé sans consentement ou en dehors du cadre légal, la double incrimination est requise par l'article 6 du Titre préliminaire. La raison est la disparité des règles en matière de consentement, notamment en ce qui concerne les personnes handicapées mentales (prélèvement d'organes interdit en Belgique), alors que la non-commercialisation des organes fait l'objet d'un consensus (quasi-)universel.

Au besoin (en fonction du cas d'espèce), la compétence des tribunaux belges prévue à l'article 14/10 (compétence dérivée du droit international ou européen) peut aussi être utilisée, pour par exemple poursuivre alors que l'auteur n'est pas trouvé en Belgique.

Titre préliminaire au Code de procédure pénale

CHAPITRE II. - DE L'EXERCICE DE L'ACTION PUBLIQUE A RAISON DES CRIMES OU DES DELITS COMMIS HORS DU TERRITOIRE DU ROYAUME.

Section 1re. [1 La compétence liée à l'auteur de l'infraction]1
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(1)<Inséré par L 2024-04-09/07, art. 2, 054; En vigueur : 28-04-2024>

Art. 6.[1 § 1er. Sous réserve de l'application des articles 7 à 11, tout Belge ou toute personne ayant sa
résidence habituelle sur le territoire du Royaume qui, hors du territoire du Royaume, se sera rendu coupable d'un fait qualifié crime ou délit par la loi belge pourra être poursuivi en Belgique si le fait est puni par la législation du pays où il a été commis.
§ 2. Si l'infraction a été commise contre un étranger, la poursuite ne pourra avoir lieu que sur réquisition du ministère public et devra, en outre, être précédée d'une plainte de l'étranger offensé ou de sa famille ou d'un avis officiel donné à l'autorité belge par l'autorité du pays où l'infraction a été commise.

Dans le cas où l'infraction a été commise, en temps de guerre, contre un ressortissant d'un pays allié de la Belgique au sens de l'article 117, alinéa 2, du Code pénal, l'avis officiel peut également être donné par l'autorité du pays dont cet étranger est ou était ressortissant.
§ 3. La poursuite d'un Belge n'aura lieu que si celui-ci est trouvé en Belgique, sauf lorsque l'infraction a été commise en temps de guerre ou s'il s'agit d'une infraction visée aux articles 347bis, 393 à 397 et 475 du Code pénal. La poursuite d'un étranger n'aura lieu que si celui-ci est trouvé en Belgique sauf s'il s'agit d'une infraction visée aux articles 347bis, 393 à 397 et 475 du Code pénal, ou, lorsque l'infraction a été commise en temps de guerre, s'il est trouvé en pays ennemi ou si son extradition peut être obtenue.]1
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(1)<L 2024-04-09/07, art. 3, 054; En vigueur : 28-04-2024>

Section 2. [1 La compétence liée à la victime de l'infraction]1
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(1)<Inséré par L 2024-04-09/07, art. 9, 054; En vigueur : 28-04-2024>
Art. 12.[1 § 1er. Sous réserve de l'application des articles 13 à 14/2, pourra être poursuivie en Belgique toute personne qui aura commis hors du territoire du Royaume, un crime contre une personne qui, au moment des faits, est un Belge, si le fait est punissable en vertu de la législation du pays où il a été commis d'une peine dont le maximum dépasse cinq ans de privation de liberté.
§ 2. La poursuite d'un Belge n'aura lieu que si celui-ci est trouvé en Belgique, sauf lorsque l'infraction a été commise en temps de guerre. La poursuite d'un étranger n'aura lieu que si celui-ci est trouvé en Belgique, ou, lorsque l'infraction a été commise en temps de guerre, s'il est trouvé en pays ennemi ou si son extradition peut être obtenue.]1
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(1)<L 2024-04-09/07, art. 10, 054; En vigueur : 28-04-2024>

Section 4. [1 La compétence liée à la défense d'autres intérêts]1
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(1)<Inséré par L 2024-04-09/07, art. 19, 054; En vigueur : 28-04-2024>

Art. 14/6. [1 § 1er. Pourra être poursuivie en Belgique toute personne qui aura commis hors du territoire du Royaume:
1° une des infractions visées aux articles 391sexies, 391septies, 409 et 417/7 à 417/22, 417/24, 433quater/1 et 433quater/4 du Code pénal;
2° une des infractions visées aux articles 433novies/2 à 433novies/10 du même Code, en cas de prélèvement d'organes pratiqué ou envisagé en échange d'un profit ou d'un avantage comparable;
3° une des infractions visées aux articles 417/25 à 417/38, 417/44 et 417/45**, 433quinquies à 433octies du même Code;**
4° une des infractions visées aux articles 77bis à 77quinquies de la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers et aux articles 10 à 13 de la loi du 9 mars 1993 tendant à réglementer et à contrôler les activités des entreprises de courtage matrimonial.
§ 2. La poursuite d'un Belge n'aura lieu que si celui-ci est trouvé en Belgique, sauf lorsque l'infraction a été commise en temps de guerre. La poursuite d'un étranger n'aura lieu que si celui-ci est trouvé en Belgique, ou, lorsque l'infraction a été commise en temps de guerre, s'il est trouvé en pays ennemi ou si son extradition peut être obtenue.]1
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(1)<Inséré par L 2024-04-09/07, art. 20, 054; En vigueur : 28-04-2024>

Section 5. [1 La compétence basée sur le droit européen ou international]1
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(1)<Inséré par L 2024-04-09/07, art. 24, 054; En vigueur : 28-04-2024>
Art. 14/10. [1 Les juridictions belges sont compétentes pour connaître des infractions commises hors du
territoire du Royaume et visées par une règle de droit international conventionnelle ou coutumière ou une règle
de droit dérivé de l'Union européenne liant la Belgique, lorsque cette règle lui impose, de quelque manière que ce soit, de soumettre l'affaire à ses autorités compétentes pour l'exercice des

poursuites. Les poursuites, en ce compris l'instruction, ne peuvent être engagées qu'à la requête du procureur fédéral qui apprécie les plaintes éventuelles. Saisi d'une plainte en application des alinéas 1er et 2, le procureur fédéral requiert le juge d'instruction d'instruire cette plainte sauf si:
1° la plainte est manifestement non fondée; ou
2° les faits relevés dans la plainte ne correspondent pas à une qualification des infractions visées au livre II, titre Ibis, du Code pénal ou à toute autre infraction internationale incriminée par un traité liant la Belgique; ou
3° une action publique recevable ne peut pas résulter de cette plainte; ou
4° des circonstances concrètes de l'affaire, il ressort que, dans l'intérêt d'une bonne administration de la justice et dans le respect des obligations internationales de la Belgique, cette affaire devrait être portée soit devant les juridictions internationales, soit devant la juridiction du lieu où les faits ont été commis, soit devant la juridiction de l'Etat dont l'auteur est ressortissant ou celle du lieu où il peut être trouvé, et pour autant que cette jurisdiction présente les qualités d'indépendance, d'impartialité et d'équité, tel que cela peut notamment ressortir des engagements internationaux relevants liant la Belgique et cet Etat.
Si le procureur fédéral est d'avis qu'une ou plusieurs des conditions visées à l'alinéa 3, 1°, 2° et 3° sont remplies, il prend devant la chambre des mises en accusation de la cour d'appel de Bruxelles des requisitions tendant à faire déclarer, selon le cas, qu'il n'y a pas lieu à poursuivre ou que l'action publique n'est pas recevable.
Seul le procureur fédéral est entendu.
Lorsque la chambre des mises en accusation constate qu'aucune des conditions visées à l'alinéa 3, 1°, 2° et 3° n'est remplie, elle désigne le juge d'instruction territorialement compétent et indique les faits sur lesquels portera l'instruction.
Il est ensuite procédé conformément au droit commun.
Le procureur fédéral a le droit de former un pourvoi en cassation contre les arrêts rendus en application des alinéas 4 et 5. Dans tous les cas, ce pourvoi sera formé dans les quinze jours à compter du prononcé de l'arrêt.
Dans le cas visé à l'alinéa 3, 3°, le procureur fédéral notifie l'arrêt de la chambre des mises en accusation lorsque cet arrêt n'est plus susceptible de recours, à l'Autorité centrale établie par l'article 2, 4e tiret, de la loi du 29 mars 2004 concernant la coopération avec la Cour pénale internationale et les tribunaux pénaux internationaux. Lorsque les faits ont été commis après le 30 juin 2002 et qu'ils relèvent de la competence matérielle de la Cour pénale internationale, l'Autorité centrale informe la Cour pénale internationale des faits. Dans le cas visé à l'alinéa 3, 4°, le procureur fédéral classe l'affaire sans suite et notifie sa décision à l'Autorité centrale. Cette décision de classement sans suite n'est susceptible d'aucun recours. Lorsque les faits ont été commis après le 30 juin 2002 et qu'ils relèvent de la compétence matérielle de la Cour pénale internationale, l'Autorité centrale informe la Cour pénale internationale des faits.]1

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(1)<Inséré par L 2024-04-09/07, art. 25, 054; En vigueur : 28-04-2024>

Section 6. [1 Dispositions générales]1

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(1)<Inséré par L 2024-04-09/07, art. 26, 054; En vigueur : 28-04-2024>

Art. 14/11. [1 L'étranger coauteur ou complice d'un crime commis hors du territoire du Royaume, par un Belge, pourra être poursuivi en Belgique, conjointement avec le Belge suspecté, ou après la condamnation de celui-ci.]1

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(1)<Inséré par L 2024-04-09/07, art. 27, 054; En vigueur : 28-04-2024>

Art. 14/12. [1 Les dispositions du présent chapitre s'appliquent à la tentative des infractions y visées, si celle-ci est punissable.]1

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(1)<Inséré par L 2024-04-09/07, art. 28, 054; En vigueur : 28-04-2024>

Art. 14/13. [1 Un suspect est trouvé en Belgique lorsqu'il est rencontré ou trouvé sur le territoire du Royaume, postérieurement à la commission de l'infraction et au plus tard au moment de l'exercice de l'action publique, même s'il a quitté le territoire avant les premiers actes de procédure.]1

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(1)<Inséré par L 2024-04-09/07, art. 29, 054; En vigueur : 28-04-2024>

-Incrimination de celui qui accepte un organe illégalement prélevé, en connaissance de cause :

Elle est prévue depuis 2019 dans le Code pénal et elle a été conservée dans le futur Code pénal qui entrera en vigueur le 8/4/ 2026 en principe.

> -CODE PENAL
> Art. 433novies/7. [1 Sera puni d'un emprisonnement d'un an à cinq ans et d'une amende de cinq cents euros à cinquante mille euros, quiconque, en connaissance de cause, aura accepté pour lui-même, la transplantation d'un organe prélevé en violation de l'article 433novies/2 ou prélevé dans un autre Etat dans les conditions visées à l'article 433novies/2.
> Les organes prélevés en Belgique ou dans un autre Etat membre de l'Union européenne sont présumés ne pas avoir été prélevés en violation de l'article 433novies/2 ou dans les conditions visées à l'article précité, jusqu'à preuve du contraire, s'ils ont été alloués par une organisation à but non lucratif, publique ou privée, se consacrant aux échanges nationaux et transfrontaliers d'organes.]1
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> (1)<Inséré par L 2019-05-22/19, art. 9, 141; En vigueur : 01-07-2019>
>
> -FUTUR CODE PENAL
> Art. 282. L'acceptation d'une transplantation illégale d'un organe humain
>
> L'acceptation d'une transplantation illégale d'un organe humain consiste à, délibérément, accepter pour soi-même, la transplantation d'un organe humain prélevé en violation de l'article 276 ou prélevé dans un autre Etat dans les conditions visées à l'article précité.
> Cette infraction est punie d'une peine de niveau 3.
> La tentative de commettre l'infraction visée au présent article n'est pas punissable.
>
> Art. 285. La présomption quant à l'origine licite des organes humains prélevés au sein de l'Union européenne
>
> Pour l'application des dispositions de la présente section, les organes humains prélevés en Belgique ou dans un autre Etat membre de l'Union européenne sont présumés, jusqu'à preuve du contraire, ne pas avoir été prélevés illégalement dans l'une des trois circonstances définies à l'article 276 ou prélevé dans un autre Etat dans une de ces mêmes circonstances, s'ils ont été alloués par une organisation à but non lucratif, publique ou privée, se consacrant aux échanges nationaux et transfrontaliers d'organes.

-A moyen terme :
Un questionnaire *volontaire et anonyme* à destination des praticiens de la transplantation est actuellement envisagé, en collaboration avec la BTS (Belgian transplantation Society). Le but serait de savoir notamment combien de médecins ont été confrontés à des patients rentrés greffés en Belgique.

-Suggestions :
Une compilation des compétences extraterritoriales prévues dans les 15 Etats parties serait utile.

COSTA RICA /COSTA RICA	**Contribution received on:**

CROATIA / CROATIE	**Contribution received on:**

CZECHIA / TCHEQUIE	**Contribution received on:**

FRANCE	Contribution received on:

LATVIA / LETTONIE	Contribution received on: 23/01/2025

TOUR DE TABLE - LATVIA
Insight into the main amendments made to comply with the requirements of the Convention

On March 30, 2017, the Minister of Justice signed the Convention on behalf of Latvia, while on February 7, 2019, the Convention was ratified by the Parliament of the Republic of Latvia.
To assess the compliance of Latvian regulatory framework with the norms of the Convention, a working group with representatives of various fields was established at the Ministry of Justice.
It was concluded that, for the most part, the norms of the Convention comply with the Latvian regulatory framework.
The use of organs or bodies is regulated by the law "On the protection of the body of a dead person and the use of human tissues and organs in medicine" or the Law on Organs.
In order to ensure compliance of the regulatory framework with the Convention, as well as to improve the regulation of the Law on Organs and the Criminal Law, in 2019 amendments were made to the Law "On the Protection of the Body of a Dead Person" and the use of human tissues and organs in medicine" which entered into force on 19.06.2019, and in the Criminal Law, which entered into force on 03.07.2019.
Amendments to the Criminal Code were made in Article 139, determining responsibility not only for illegal removal of tissues or organs, but also for illegal use, and 139.1. in the article, which was supplemented to provide for liability for recruiting a donor or recipient of human tissue or organs for illegal removal or implantation of organs. After the amendments to the law, no criminal proceedings under these articles has not been started. Pursuant to Article 154.1 of the Human Trafficking Code, trafficking in human organs has not been initiated in in law enforcement agencies.
Before the amendments were made in the Latvian regulatory framework, there was an unclear regulation related to the mechanism of how individuals are notified of the rights set in the Law on Organs. It was determined that an adult has the right to express a will to prohibit or allow the use of his body, tissues and organs after death by making a mark in the health information system
Residents who wish to express their will regarding organ donation can do so electronically by making an appropriate mark on the national e-health system website www.eveseliba.gov.lv. The National Health Service includes and updates the information in the Resident Register.
The Law on Organs established that advertising or dissemination of any other public information in which tissue or organs of a living or dead person is offered with the intention of obtaining financial gain or an equivalent advantage, or showing interest in the possibility of obtaining tissue or organs of a living or dead person, is prohibited, thus also covering advertisements posted on classifieds portals, as until then only advertising of such activities, which is a narrower concept, was prohibited.
It is noted that no additional actions or measures aimed at implementing the provisions of the Convention have been undertaken at this time. Meanwhile, the Ministry of Justice, in collaboration with the Ministry of Health and the Latvian Transplantation Centre of the “Pauls Stradiņš Clinical University Hospital” State LLC, is preparing responses to the Santiago de Compostela committee's Round 1 thematic evaluation questionnaire titled “Mechanisms for Prevention and Awareness-Raising to Combat Trafficking in Human Organs” and plans to submit them by the end of May 2025.

MALTA / MALTE	Contribution received on:

MONTENEGRO / MONTÉNÉGRO	Contribution received on:

NORWAY/ NORVEGE	Contribution received on: 11/04/2025

Input from Norway:

Comments to the Secretariat:

Below is an update on what has happened since the last meeting.

- National work
  The Norwegian Directorate of Health has in March 2025 arranged a network meeting in Norway including representatives from the health authorities and the hospitals performing donation and transplantation. During the meeting, the Convention was presented. We received updated information from the national registries on the number of Norwegian patients on organ waiting lists who has received suspicious transplantations abroad. This was a handful of patients the last two years.
  There are still no persons in Norway that has been prosecuted or convicted for organ trafficking.

- International work
  In our meeting in Strasbourg in December 2024 I informed about raising awareness about this convention in the Nordic countries during a meeting in Scandiatransplant in September 2024. Since then, I have been in contact with the competent authority in Finland, and they are planning to sign the convention. I have also been in contact with the national representative from Denmark, who are considering signing the convention.

Suggestions to the Secretariat:

Below is a couple of suggestions to the Secretariat.

- Is it possible to provide an overview of the voluntary parts of the convention?
  The mapping documents from each country are long and partly difficult to compare. Would it be possible to make an overview of the voluntary parts of the convention in each country? For instance, a table as suggested below or a map with assorted colours. With voluntary parts I mean for instance if it is illegal to come back from abroad with a bought organ, or if there is an obligation for health care personnel to report suspicious cases.

	Voluntary 1	Voluntary 2	….	….
Country A				
Country A				

- What are the considerations behind educating the general public?
  In the last meeting and in the questionnaire for the 1st monitoring round, there are questions about education for the general public. In my opinion, such a strategy is not logical. In my country there are approximately 5.5 million inhabitants and 550 people on an organ waiting list. This means that approximately 1 out of 10.000 persons will be in the target group for such information. I think it would be better to target the information to persons on a waiting list, or soon to bee on a waiting list.

PORTUGAL	Contribution received on:

MOLDOVA / MOLDAVIE	Contribution received on:

SLOVENIA / SLOVENIE	Contribution received on:

SPAIN / ESPAGNE	Contribution received on:

SWITZERLAND / SUISSE	Contribution received on: 25/04/2025
I suggest to collaborate with NETTA. The CoP member should receive the national data from the NETTA member of his / her country.	