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## Committee on Social Affairs, Health and Sustainable Development

### Minutes

#### Launch event of the handbook for parliamentarians on the Council of Europe Convention against Trafficking in Human Organs, held in Strasbourg, on Thursday, 3 October 2019

The Committee held a launch event for the Handbook for Parliamentarians on the Convention against Trafficking in Human Organs (CETS No.216), with an opening by Ms Liliane Maury Pasquier, President of the Parliamentary Assembly of the Council of Europe, a presentation of the Handbook by Mr Kristof Van Assche, Research Professor in Health Law and Kinship Studies, University of Antwerp, and a public hearing with the participation of:

- ✓ Mr Jan Kleijssen, Director, Information Society and Action against Crime Directorate
- ✓ Ms Marta Lopez Fraga, Scientific Programme Officer, HealthCare Section, European Directorate for the Quality of Medicines and Health Care

**The Chairperson** opened the launch event and welcomed the guest speakers. The President of the Assembly had initiated the work on a report on "Organ transplant tourism" in her former quality as a member of this Committee and had shown strong interest in this topic. Her support was very much appreciated.

**The President** stressed that trafficking in human organs was a serious human rights violation. It was also one of the most lucrative criminal activities. In 2003, the Assembly had adopted Recommendation 1611 (2003) on organ trafficking in Europe, which called on the member states of the Council of Europe to provide for criminal sanctions for organ trafficking. In 2009, the Council of Europe and the United Nations published a "Joint Study on trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs". This study envisaged the development of an international legal instrument on this topic. The Convention against Trafficking in Human Organs was consequently adopted in 2014 and opened for signature the following year. This treaty, which entered into force on 1 March 2019, had only been ratified by nine Member States, hence a much higher ratification rate was needed. In this context, parliamentarians had an important role to play, to support the ratification process, as well as the implementation of this Convention. This Handbook for Parliamentarians provided a clear explanation of the added value of the Convention, detailed its provisions and suggested ways in which parliamentarians could support it. Stopping organ trafficking was the parliamentarians' duty. It was now up to them to act as Ambassadors of this Convention.

**Mr Van Assche** gave a short presentation of the Handbook for Parliamentarians. The black market for organs was difficult to eradicate, since a shortage of organs continued to exist. Poor people in desperate circumstances could easily be persuaded into selling an organ and this was a very lucrative market. It was a highly dynamic process with traffickers moving to different places and changing their *modi operandi*. Difficulties in prosecuting included the cross-border character of trafficking, loopholes in legislation, corruption, reluctance to prosecute medical professionals and unwillingness of "donors"/recipients to co-operate. Prior action taken by the Council of Europe includes the Oviedo Convention, its Additional Protocols, and the Convention on Action against Trafficking in Human Beings. However, difficulties in prosecuting organ trafficking remained, as the Oviedo Convention had no criminal law provisions. The Anti-Trafficking Convention was not always applicable, particularly in the absence of exploitation of a living person. Even when a person had been exploited, it was difficult to prove that illicit means had been used, thus the Organ Trafficking Convention was badly needed. The

<sup>1</sup>The minutes were approved and declassified by the Committee on Social Affairs, Health and Sustainable Development at its meeting on 5 December 2019, in Paris.

Handbook for Parliamentarians was designed to raise awareness, assist in promoting the Convention, encourage its implementation and ratification, and explain its provisions in understandable language and by referring to good practice. The added value of the Convention was that it included the first definition of organ trafficking, harmonised criminal law provisions, facilitated international co-operation, guaranteed protection of victims, required implementation of prevention measures and ensured monitoring of implementation of the Convention by the Committee of the Parties.

**Mr Kleijssen** congratulated the Committee on organising the 2<sup>nd</sup> in a series of launching events. The Convention was now in force. Trafficking in human organs was very lucrative. 10 000 kidneys alone were trafficked every year. A lot of desperate people were trying to, were bullied into, or were forced to sell their organs. There was a big difference between the amount that they received and the amount that the traffickers charged the recipients (5 000 versus 100 000 Euros). One more ratification was expected by Costa Rica, which was encouraging, given the scale of the problem. Interestingly, the Council of Europe Convention on Cybercrime had been ratified by over 60 countries. This example could be followed by the Organ Trafficking Convention. Co-operation would start in the Committee of Parties after 10 ratifications. The best image to use was that of the carbon footprint as organ trafficking left “a medical footprint”. It ruined the lives of “donors” and often those of the recipients. This Convention could go a long way to address this negative impact.

**The Chairperson** pointed out that he used to work as an editor for a magazine which interviewed people who had donated their organs. When China had reformed its transplantation system to end the use of organs of executed prisoners, South Korea had protested as there were many clinics with no incoming material. Trafficking in organs was as unacceptable as death penalty, and no country should object to putting a stop to it.

**Ms Lopez Fraga** pointed out that the advances in organ transplantation were one of greatest medical successes of the century. 136.000 transplantation operations were held in 2016, but even so only 10% of global needs were met and the waiting lists were long. Nineteen people died every day because of the lack of organs. The disparity between supply and demand provided a powerful incentive for traffickers. Trafficking of human organs violated human rights and was a public health hazard. The consequences of not receiving treatments were serious for recipients, for their loved ones and for the community. In many countries there were alleged providers of trafficked organs and travelling abroad for organ transplantation was widespread. These were not speculations but confirmed data, and the numbers were staggering. In all countries there were “donors” and recipients. Many countries did not have adequate legislative frameworks and corruption was a major challenge. The Convention defined what constituted trafficking and addressed the absence of a comprehensive international tool. This was a unique opportunity to address the existing gap. Many people were involved in transplantation, including health professionals, pathologists and those responsible for evaluation of the legitimacy of donor-recipient pairs. A 2016 survey revealed that 31% of the respondents had ethical concerns and did not know what constituted an offence or what to do in problematic cases. Gaps included diversion of properly obtained organs to patients who did not qualify or were organ “tourists”. This continued to happen and had to be addressed. Not a single county was self-sufficient with respect to organ transplantation. Organs were moved between countries thus action was needed at the global level.

**Mr Amraoui** mentioned that in Germany there had been a debate for the last year and a half about consent related to organs donations.

**The Chairperson** called on all members to speak on this issue in their parliament, in order to increase the number of ratifications.

**The Chairperson** warmly thanked the President, Mr Van Assche, and the Council of Europe colleagues for their contribution, then closed the hearing.

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*Commission des questions sociales, de la santé et du développement durable*

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