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Towards a Council of Europe convention to combat trafficking in organs, tissues and cells of human origin

Amendment¹ No. 3

tabled by the Committee on Social Affairs, Health and Sustainable Development

In the draft recommendation, replace paragraph 5 with the following paragraph:

"The Assembly underlines the utmost importance of protecting vulnerable persons, in particular persons deprived of their liberty and persons who are unable to give full and valid consent to an intervention for reasons either of their age (in the case of minors) or their mental incapacity. In this connection, it welcomes the provision in the draft convention defining any removal of organs without the free, informed and specific consent of the living donor as illicit. This is in line with the provisions of the Convention of the Human Rights and Biomedicine (Oviedo Convention), which prohibit any organ removal from persons who do not have the capacity to consent, thereby affording special protection to that group of persons. The Assembly notes that, while it is possible for States to reserve the right not to apply this article, such a reservation would be accepted only in exceptional cases and in accordance with appropriate safeguards or consent provisions under their domestic law. The possibility of making a reservation is intended to facilitate access to the Convention for States whose legislation is less restrictive than the principles set out in the Oviedo Convention in relation to consent, while respecting the fundamental rights of the persons concerned."

1. 2013 - First part-session

