



Resolution 2327 (2020)¹

Organ transplant tourism

Parliamentary Assembly

1. Organ transplant tourism is one of the most lucrative illegal activities worldwide, which makes it extremely difficult to eradicate. This is because organ transplantation is the best – and frequently the only – lifesaving treatment for end-stage organ failure. While the number of transplants performed worldwide has been steadily increasing, the need for transplants is also growing. Demand far outstrips supply.

2. The disparity between the need for and the supply of organs prompts some patients to try to purchase an illicitly obtained organ, often involving travelling to countries where laws prohibiting organ sales are poorly enforced or marred by loopholes. This practice has been consistently and uniformly condemned by the Council of Europe, the World Health Organization (WHO) and by professional organisations such as the World Medical Association and the Transplantation Society.

3. The Declaration of Istanbul on Organ Trafficking and Transplant Tourism defines organ “transplant tourism” as travel for transplantation involving: “trafficking in persons for the purpose of organ removal, trafficking in human organs, or if the resources (organs, professionals and transplant centres) devoted to providing transplants to non-resident patients undermine the country’s ability to provide transplant services for its own population”. In this regard, it is necessary to clearly define the conditions of transplantation for residents and non-residents in a country’s national legislation.

4. Both at global and at European level, widely ratified conventions with effective monitoring mechanisms that combat trafficking in human beings, including for the purpose of organ removal, are in force. The Council of Europe is also at the origin of the Convention against Trafficking in Human Organs (CETS No. 216), which constitutes the only international criminal law framework addressing organ trafficking. It entered into force on 1 March 2018 but has, so far, only been ratified by nine member States, and its Committee of the Parties has yet to be established. The use of transplant resources that undermines a country’s ability to provide transplant services for its own population is not explicitly addressed by the above-mentioned conventions. The Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No. 164) and its Additional Protocol concerning Transplantation of Organs and Tissues of Human Origin (ETS No. 186) establish the principle that the human body and its parts shall not, as such, give rise to financial gain.

5. Unfortunately, despite this solid legal framework, organ transplant tourism continues, including in Europe and China, though its magnitude is not well known. Organ transplant tourism may involve the use of organs from deceased persons (who may not have given proper consent, as in the case of executed prisoners in China, or whose organs were properly donated but later diverted for illicit use by physicians providing transplant services to patients who do not qualify to receive them within national programmes or at facilities that serve “transplant tourists”) or, in its most pervasive and hideous form, from living persons. Organ sellers often come from the poorest strata of society (including migrants and refugees). They usually only co-operate because of their desperate financial situation and because they are misled about the nature of the surgery and the consequences of giving up an organ. Medical reports of the health status of returning transplant tourists demonstrate that transplant tourism frequently also has negative effects on the interests of the recipients, their families and communities. Combined with the financial sacrifices that they have made to

1. *Assembly debate* on 31 January 2020 (9th Sitting) (see [Doc. 15029](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Mr Stefan Schennach). *Text adopted by the Assembly* on 31 January 2020 (9th Sitting).



obtain an organ, transplant tourists thus run a real risk of being exploited themselves and of suffering severe health consequences. The only profits made are by corrupted health professionals, middlemen and other criminals. However, these profits are huge and there is often little risk of punishment.

6. A holistic approach is necessary to solve the problem of organ transplant tourism. At its root, there is a need to close the gap between the demand for and the supply of organs, in the face of desperate people who need an organ and whose numbers will only increase in the future.

7. The Parliamentary Assembly thus recommends that member States of the Council of Europe:

7.1. sign, ratify and implement all relevant global and Council of Europe conventions, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; the Council of Europe's Convention on Human Rights and Biomedicine and its Additional Protocol concerning Transplantation of Organs and Tissues of Human Origin; the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) and the Council of Europe Convention against Trafficking in Human Organs;

7.2. develop and improve existing transplant programmes in accordance with good practice examples, through professional education and training, and collaboration across countries, with the aim of striving for national self-sufficiency in organ donation and transplantation: this may involve establishing and providing financial and human resources for national transplant organisations, training critical care professionals in deceased donation to maximise the detection of potential organ donors, appointing transplant "donor co-ordinators" in every hospital with an intensive care unit and developing and optimising ethically sound living donation programmes;

7.3. develop and implement population-based strategies to prevent (and treat) organ failure in the first place by, for example, encouraging a healthy lifestyle and providing universal health care;

7.4. improve transplant oversight through intergovernmental efforts, in Europe and globally, by putting into place comprehensive mechanisms of traceability for donors and recipients, including at the transnational level; recording information about transnational transplant activities, including by joining the International Network of National Focal Points on Travel for Transplantation and providing information to their International Database on Travel for Transplantation; enforcing international referral systems before any travel for organ transplantation; and informing and training health-care, judicial and other professionals about their roles in recognising, preventing and combating organ transplant tourism;

7.5. effectively combat trafficking in human beings for the purpose of organ removal and trafficking in organs, including through transnational and international co-operation, while ensuring adequate protection, compensation and assistance of victims (as stipulated, *inter alia*, in the human trafficking and organ trafficking conventions), including by closing legal loopholes and establishing persuasive legal sanctions; increasing collaboration between monitoring bodies, professional organisations and law-enforcement agencies; and strengthening partnerships between global actors (for example, the UN Office on Drugs and Crime (UNODC), the Office of the UN High Commissioner for Refugees (HCR), WHO and Interpol), regional actors (for example, the Council of Europe, the Organization for Security and Co-operation in Europe (OSCE), Europol and Eurojust), professional actors (for example, World Medical Association, the Transplantation Society and the International Society of Nephrology), non-governmental organisations and others (such as the Declaration of Istanbul Custodian Group).

8. In the light of the above, the Assembly believes that there is an urgent need to strengthen the role of national parliaments in tackling organ transplant tourism. It invites them to promote public awareness, adopt relevant legislation and ratify international legal instruments, and monitor their effective implementation.

9. In view of the global nature of the phenomenon of organ transplant tourism, the Assembly invites all States interested in joining the fight, but particularly Council of Europe observer States and the States whose parliaments hold observer or partner for democracy status with the Assembly, to do so and, in particular, to accede to the relevant Council of Europe conventions open to them.

10. Finally, the Assembly recommends that member States exercise particular caution when co-operating with the China Organ Transplant Response System and the Red Cross Society of China, in view of a recent study casting doubt on the credibility of China's organ transplant reform.