



# General Assembly

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### Third Committee

Agenda item 109

#### Crime prevention and criminal justice

**Armenia, Austria, Belize, Bulgaria, Canada, Costa Rica, Côte d'Ivoire, Cyprus, Czechia, Ecuador, Equatorial Guinea, Estonia, Finland, Georgia, Germany, Guatemala, Honduras, Hungary, Israel, Liechtenstein, Luxembourg, Montenegro, Paraguay, Peru, Portugal, Romania, Slovenia, Spain, United Kingdom of Great Britain and Northern Ireland and Uruguay: revised draft resolution**

### **Strengthening and promoting effective measures and international cooperation on organ donation and transplantation to prevent and combat trafficking in persons for the purpose of organ removal and trafficking in human organs**

*The General Assembly,*

*Reaffirming* the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights,<sup>1</sup>

*Recalling* the 2030 Agenda for Sustainable Development,<sup>2</sup> and recognizing its integrated and indivisible nature,

*Reaffirming* the commitments by Member States to take immediate and effective measures to eradicate all forms of trafficking in persons,

*Recalling* its resolutions [59/156](#) of 20 December 2004, entitled “Preventing, combating and punishing trafficking in human organs”, [73/189](#) of 17 December 2018, entitled “Strengthening and promoting effective measures and international cooperation on organ donation and transplantation to prevent and combat trafficking in persons for the purpose of organ removal and trafficking in human organs”, [74/176](#) of 18 December 2019, entitled “Improving the coordination of efforts against trafficking in persons”, [75/195](#) of 16 December 2020, entitled “Strengthening and promoting effective measures and international cooperation on organ donation and transplantation to prevent and combat trafficking in persons for the purpose of organ removal and trafficking in human organs”, and [76/186](#) of 16 December 2021, entitled “Improving the coordination of efforts against trafficking in persons”, as well as

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<sup>1</sup> Resolution [217 A \(III\)](#).

<sup>2</sup> Resolution [70/1](#).



Commission on Crime Prevention and Criminal Justice resolutions 23/2 of 16 May 2014<sup>3</sup> and 25/1 of 27 May 2016<sup>4</sup> on preventing and combating trafficking in human organs and trafficking in persons for the purpose of organ removal,

*Reaffirming* the United Nations Convention against Transnational Organized Crime<sup>5</sup> and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,<sup>6</sup>

*Recalling* the adoption of the United Nations Global Plan of Action to Combat Trafficking in Persons by the General Assembly in its resolution 64/293 of 30 July 2010, and underlining the importance of its full implementation,

*Welcoming* the adoption of the 2021 Political Declaration on the Implementation of the United Nations Global Plan of Action to Combat Trafficking in Persons at the high-level meeting of the General Assembly held at United Nations Headquarters in New York on 22 and 23 November 2021,<sup>7</sup>

*Recognizing* the need for a multidisciplinary approach, based on respect for all human rights, to combating trafficking in human organs and trafficking in persons for the purpose of organ removal,

*Taking note with appreciation* of the World Health Organization guiding principles on human cell, tissue and organ transplantation, endorsed by the sixty-third World Health Assembly in its resolution 63.22 of 21 May 2010,<sup>8</sup> and of the Madrid resolution resulting from the Third Global Consultation on Organ Donation and Transplantation, which provides guidance for countries to progress towards self-sufficiency,<sup>9</sup>

*Noting* the intention of the World Health Organization to administratively transform its Task Force on Donation and Transplantation of Human Organs and Tissues, established in June 2018, into an advisory expert group on donation and transplantation of human organs, tissues and cells with a view to improving technical advice and support for the World Health Organization at all levels in disseminating and implementing its guiding principles and in capacity-building in order to ensure ethical practices in organ and tissue donation and transplantation worldwide,

*Taking note* of the report of the Special Rapporteur of the Human Rights Council on trafficking in persons, especially women and children, on the issue of trafficking in persons for the removal of organs submitted to the General Assembly at its sixty-eighth session,<sup>10</sup>

*Welcoming* the joint study by the United Nations and the Council of Europe, entitled “Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs”, and the United Nations Office on Drugs and Crime assessment toolkit, entitled “Trafficking in persons for the purpose of organ removal”, and taking note of the study by the Office of the United Nations High Commissioner for Human Rights, entitled “Trafficking in persons for the removal of organs: advancing a human rights approach and engaging human rights mechanisms”,

<sup>3</sup> See *Official Records of the Economic and Social Council, 2014, Supplement No. 10 (E/2014/30)*, chap. I, sect. D.

<sup>4</sup> *Ibid.*, 2016, *Supplement No. 10 (E/2016/30)*, chap. I, sect. D.

<sup>5</sup> United Nations, *Treaty Series*, vol. 2225, No. 39574.

<sup>6</sup> *Ibid.*, vol. 2237, No. 39574.

<sup>7</sup> Resolution 76/7, annex.

<sup>8</sup> See World Health Organization, document WHA63/2010/REC/1.

<sup>9</sup> “The Madrid resolution on organ donation and transplantation: national responsibility in meeting the needs of patients, guided by the WHO principles”, *Transplantation*, vol. 91, 15 June 2011, pp. S29–S31.

<sup>10</sup> See A/68/256.

and the 2018 edition of the Declaration of Istanbul on Organ Trafficking and Transplant Tourism,

*Taking note* of the Council of Europe Convention against Trafficking in Human Organs as the first legally binding document, open to accession by non-member States of the Council of Europe, that provides a list of activities that constitute trafficking in human organs and includes provisions to prevent and combat this crime, to protect its victims and to promote cooperation among parties in the fight against this crime, which usually has a transnational scope,

*Welcoming* the statement issued by the World Medical Association on measures for the prevention and fight against transplant-related crimes, adopted by the 71st World Medical Association General Assembly in Cordoba, Spain, in October 2020, acknowledging that health-care professionals may play a key role in preventing and combating trafficking in persons for the purpose of organ removal and trafficking in human organs, and calling upon policymakers, health authorities and health-care professionals to take appropriate measures to counter it,

*Affirming* that trafficking in persons for the purpose of organ removal and trafficking in human organs constitute two distinct crimes that abuse or impair the enjoyment of human rights and fundamental freedoms and have significant negative health implications, and stressing that it is essential to place the protection of all human rights at the centre of measures to prevent and end such trafficking,

*Recognizing* that, although trafficking in human organs and trafficking in persons for the purpose of organ removal are distinct crimes, both are related to the shortage of human organs available for transplantation and to social and economic difficulties that put persons in vulnerable situations that have worsened as a result of the coronavirus disease (COVID-19) pandemic, and that prevention of and response to both crimes must be undertaken in an effective and coordinated manner,

*Considering* that the whole process of donation and transplantation of human organs should be an established part of national health services provided to the public, that the process should take place under conditions aimed at the protection of human rights of donors and recipients of organs and that health-care systems should be instrumental in ensuring such conditions,

*Considering also* that the commercial trade in human organs is prohibited in almost all Member States and that both trafficking in persons for the purpose of organ removal and trafficking in human organs have a profound impact on the health both of those who sell their organs and of victims of trafficking in persons for the purpose of organ removal, as well as on recipients of organs obtained in such circumstances, and that both crimes might represent a threat to public health and may, in some cases, affect the integrity and the functioning of health-care systems,

*Alarmed* at the exploitation by criminal groups that take advantage of human needs, poverty and destitution and of other people in vulnerable situations for the purpose of trafficking in human organs, and trafficking in persons for the purpose of organ removal,

*Noting* the need to protect living donors and recipients, who are usually the most vulnerable members of society, from exploitation by traffickers, including by providing them with relevant information, as well as the need to investigate, prosecute and punish those traffickers and to provide assistance to victims,

*Emphasizing* the importance of respecting and protecting the rights of victims of trafficking in persons for the purpose of organ removal and, when recognized in national legislation, addressing the vulnerability of victims of trafficking in human organs, and providing assistance, as applicable,

*Noting* that situations of protracted crises, armed conflict, poverty, natural disasters and violence, the adverse effects of climate change, other environmental challenges, and health, economic, social and humanitarian emergencies can further exacerbate existing vulnerabilities and cause more individuals to become vulnerable to trafficking in persons for organ removal,

*Convinced* of the need to strengthen local, regional and international cooperation for the effective prevention and combating of trafficking in persons for the purpose of organ removal and trafficking in human organs wherever they occur, and determined to prevent the provision of safe haven to those who participate in or profit from transnational organized crime and to prosecute such persons for the crimes that they commit,

*Considering* that measures to address trafficking in human organs and trafficking in persons for the purpose of organ removal referred to in the present resolution should, where appropriate, be extended by the Member States to substances of human origin other than organs, such as tissues and cells,

1. *Urges* Member States to prevent and combat trafficking in persons for the purpose of organ removal and trafficking in human organs, in accordance with their obligations under international and national law, and to uphold accountability through measures that may include preventing and, in accordance with relevant national legislation, investigating, prosecuting and punishing trafficking in persons for the purpose of organ removal and trafficking in human organs;

2. *Urges* Member States that have not yet done so to ratify or accede to, as a matter of priority, the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, taking into consideration the central role of those instruments in the fight against trafficking in persons, and urges States parties to those instruments to implement them fully and effectively;

3. *Encourages* Member States, consistent with their obligations under the relevant international instruments, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, to criminalize trafficking in persons for organ removal, prevent and combat this specific form of trafficking, protect and assist its victims and promote cooperation;

4. *Also encourages* Member States to further strengthen international cooperation in the fight against trafficking in persons for organ removal, and to harmonize, where appropriate, their legal frameworks in this regard, including by considering signing, ratifying or acceding to relevant international treaties, such as the Council of Europe Convention against Trafficking in Human Organs;

5. *Further encourages* Member States to progress towards self-sufficiency in the transplantation of human organs by developing preventive strategies aimed at decreasing the incidence of diseases treatable through transplantation, and at ethically increasing the availability of human organs for transplantation purposes, with special attention to maximizing donations from deceased donors and to protecting the health and welfare of living donors;

6. *Urges* Member States to consider adopting the following measures related to organ transplantation, in accordance with the fundamental principles of their domestic legal systems and national legislation and in line with the World Health Organization guiding principles on human cell, tissue and organ transplantation:<sup>11</sup>

<sup>11</sup> World Health Organization, document WHA63/2010/REC/1, annex 8.

(a) Strengthening legislative frameworks, including by reviewing, developing or amending them, as appropriate, to prevent and combat trafficking in persons for the purpose of organ removal and trafficking in human organs, including the criminalization of these practices and provisions to ensure the accountability of the perpetrators;

(b) Adopting appropriate legislative measures necessary to guarantee that the donation of organs is guided by clinical criteria and ethical norms, based on the donors' informed and voluntary consent, as an altruistic act, performed without any monetary payment or other reward of monetary value, for the living donor or the family of the deceased donor, or any other person or entity, which does not preclude reimbursing reasonable and verifiable expenses incurred by donors;

(c) Ensuring equitable access to human organ transplantation, on the basis of non-discrimination;

(d) Increasing public awareness and understanding of the benefits resulting from the voluntary non-remunerated donation of organs from deceased and living persons, and of the physical, psychological and social risks to individuals and communities caused by trafficking in human organs and trafficking in persons for the purpose of organ removal, as well as transplant tourism;

(e) Ensuring that the removal of human organs from both deceased and living persons, as well as the transplantation of human organs, exclusively take place in centres specifically authorized for such activities by the relevant national health authorities and are not performed outside the framework of domestic transplantation systems or in situations where the transplantation is performed in breach of the guiding principles or national transplantation laws or rules;

(f) Developing and strengthening regulatory oversight of the medical facilities and medical professionals involved in the recovery and transplantation of human organs, including through control measures, such as periodic audits;

(g) Setting specific processes and criteria for the authorization of every organ removal and transplantation procedure;

(h) Establishing and developing registries that include information regarding each organ recovery and transplantation procedure and outcomes for living donors and recipients of organs, as well as identification systems that facilitate tracing each organ from donor to recipient and vice versa, with the purpose of ensuring the transparency of practices and the quality and safety of human organs, with due regard to professional confidentiality and personal data protection;

(i) Ensuring that these registries are designed to record information on procedures that take place within a country and on transplant and living donation procedures involving residents of that country carried out in other jurisdictions, in accordance with national legislation and relevant international obligations on data protection;

(j) Promoting the voluntary contribution of periodic information to international registers for organ donation and transplantation activity, such as the Global Observatory on Donation and Transplantation developed in collaboration with the World Health Organization, which also collects data on cases of travel for transplantation;

(k) Providing long-term medical and psychosocial care for both living donors and recipients;

7. *Encourages* Member States to prosecute all actors that knowingly engage in trafficking in persons for organ removal, regardless of their status and including

physicians, brokers, medical staff and legal persons, such as pharmaceutical and insurance companies;

8. *Encourages* Member States, international organizations and civil society to ensure sustained efforts in terms of information and awareness-raising activities aimed at fostering a positive attitude on the part of society regarding donation, including posthumous donation, as a gesture of altruism, solidarity and community participation, and to warn of the risks of organ removal when performed in the context of trafficking, in particular among people in vulnerable situations at risk of becoming victims of this crime;

9. *Encourages* Member States to develop effective and properly resourced organ donation and transplantation systems and provide technical assistance for their implementation in requesting countries;

10. *Also encourages* Member States to exchange experience in and information on preventing, prosecuting and punishing trafficking in human organs and trafficking in persons for the purpose of organ removal, to combat the illicit financial flows resulting from such trafficking, as well as on the protection of victims, as appropriate, and to strengthen international cooperation between all relevant actors;

11. *Further encourages* Member States to provide training and capacity-building for law enforcement and border control officials, as well as for health-care professionals, on identifying potential cases, including on the Internet, of trafficking in human organs and trafficking in persons for the purpose of organ removal and on the need to certify the origin of organs to be transplanted and to report suspected or confirmed illegal practices;

12. *Calls upon* Member States, in cooperation with national medical associations and/or other relevant professional bodies, to establish, where appropriate, guidelines and toolkits, reporting mechanisms or other necessary frameworks for health-care professionals to report any confirmed or suspected case of trafficking in persons for the purpose of organ removal and of trafficking in human organs to the relevant authorities and, where applicable, to ensure that the reporting of trafficking cases is a permitted exception to the physician's obligation to maintain confidentiality;

13. *Urges* Member States to ensure that health authorities and/or insurance providers do not reimburse the costs of transplant procedures that have occurred in the context of trafficking in persons for the purpose of organ removal or trafficking in human organs, although the costs of medications and post-transplant care should be covered under the same conditions that apply to any other transplant recipient;

14. *Encourages* Member States to strengthen international cooperation in responding to the crimes of trafficking in persons for the purpose of organ removal and trafficking in human organs, as provided for in domestic and international law;

15. *Urges* Member States to further develop, in their domestic legislation, ways of protecting victims of trafficking in persons for the purpose of organ removal and, as appropriate, ways of addressing the vulnerability of those individuals who sell their organs, including by considering the following measures:

(a) Adopting all necessary measures, including legal measures, guidelines or policies, to protect the rights and interests of victims in the course of all phases of criminal prosecution and judicial proceedings and to ensure accountability, and intensifying efforts, subject to national laws, rules and regulations, to implement the principle of non-punishment of victims of trafficking, under which victims are not to be inappropriately punished or prosecuted for acts that traffickers compelled them to commit or that they committed as a direct consequence of being trafficked;

(b) Facilitating the access of victims of trafficking in persons for the purpose of organ removal and, as allowed by domestic law, of those individuals who sell their organs to relevant information related to their case, while respecting their anonymity, as well as measures to protect their health and other rights;

(c) Providing necessary medical and psychosocial care, as well as support and assistance, including livelihood support, as appropriate, to victims of trafficking in persons for the purpose of organ removal and individuals who sell their organs in the short, medium and long term;

(d) Ensuring that domestic legal systems take measures based on a victim centred-approach that offer victims of trafficking in persons for the purpose of organ removal and individuals who sell their organs the possibility of obtaining effective compensation and other remedies, including legal remedies, for the damage suffered, without fear of facing retaliation;

(e) Promoting the creation of governmental mechanisms and providing support to specialized non-governmental organizations, as appropriate, to address the needs of groups at risk of trafficking in human organs and trafficking in persons for the purpose of organ removal in order to facilitate the provision of holistic and early care to potential or actual victims of those crimes, and ensuring that all support measures are non-discriminatory, gender-, age- and culturally sensitive and comply with international human rights obligations and national legislation;

16. *Encourages* the World Health Organization, in consultation with Member States and other relevant stakeholders, to take further steps towards developing a global strategy in the field of organs, tissues and cells that seeks the integration of donation and transplantation into health-care systems in accordance with the World Health Organization guiding principles on human cell, tissue and organ transplantation and that would reference the importance of avoiding trafficking in persons for organ removal and organ trafficking;

17. *Requests* the World Health Organization, the United Nations Office on Drugs and Crime and the Office of the United Nations High Commissioner for Human Rights to continue to provide guidelines to Member States for developing orderly, ethical and acceptable programmes for the acquisition and transplantation of human organs for therapeutic purposes, with particular attention to low-middle-income countries, and to intensify the coordination of efforts in combating organ trafficking and trafficking in persons for the purpose of organ removal, including the development of additional transplantation registries;

18. *Requests* the United Nations Office on Drugs and Crime to engage in a dialogue with members of the Inter-Agency Coordination Group against Trafficking in Persons and other relevant intergovernmental international organizations, in particular the World Health Organization, in close consultation with Member States, so as to enable the Office to improve data collection and analysis on instances of trafficking in persons for the purpose of organ removal and relevant prosecutions, and to promote research among diverse fields, such as the medical and health management fields, as well as on the part of the anti-trafficking community, while bearing in mind that data on trafficking in persons for the purpose of organ removal are being gathered for the *Global Report on Trafficking in Persons*, in accordance with the provisions set out in General Assembly resolution [70/179](#) of 17 December 2015;

19. *Also requests* the United Nations Office on Drugs and Crime, in collaboration with other entities of the United Nations system, including the World Health Organization, to continue providing capacity-building and technical assistance to States, upon request, to assist them in strengthening national capacities to effectively prevent and combat trafficking in persons for the purpose of organ removal

and trafficking in human organs, with important tools such as the new United Nations Office on Drugs and Crime toolkit on the investigation and prosecution of trafficking in persons for organ removal;

20. *Invites* Member States and other donors to provide extrabudgetary resources to the United Nations Office on Drugs and Crime for the purpose of implementing the present resolution and to the World Health Organization to disseminate and implement the principles endorsed by the World Health Assembly to address the ethical aspects of organ transplantation, such as voluntary and unpaid donation, universal access to transplant services, the availability, safety and quality of the procedures and national accountability through the development of sustainable transplant systems and the achievement of national self-sufficiency in order to stop trafficking in human organs and trafficking in persons for the purpose of organ removal, as well as transplant tourism;

21. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the General Assembly at its seventy-ninth session, all costs associated with it to be covered by extrabudgetary resources;

22. *Decides* to continue its consideration of the question at its seventy-ninth session, under the item entitled “Crime prevention and criminal justice”.

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