

The AJT Report

News and issues that affect organ and tissue transplantation



New Treaty Aims to Curb Organ Trafficking

International agreement identifies and criminalizes activities that constitute organ trafficking

Representatives from the Council of Europe, the European Union and other nations will meet in Spain early next year to sign an international treaty to enact legislation that would consistently and harshly punish those who participate in organ trafficking. This action comes as organ trafficking for financial gain continues to attract international attention, including a recent article in the *New York Times*.¹

The new agreement, the Council of Europe Convention Against Trafficking in Human Organs, was adopted by the Council of Europe Committee of Ministers last July after several years of committee work. The compact is a comprehensive binding agreement that stipulates specific offenses and sanctions, including loss of liberty, extradition, the cessation of commercial activity and confiscation of proceeds. Additionally, the convention includes provisions for protection of victims and witnesses.

A Complement to Existing Worldwide Legislation

Many nations currently have legislation that prohibits organ trafficking, but enforcement is often weak and inconsistent. The current convention is written to complement the provisions in other international laws criminalizing organ trafficking.

“In many countries, some or several of the illicit transplant-related activities that, under the definition of the convention, constitute organ trafficking are currently not punishable by criminal sanctions,” says Marta Lopez Fraga, PhD, secretary to the European

Committee on Organ Transplantation. “These may include various forms of illicit removal of organs, the implantation of illicitly removed organs, the solicitation and recruitment of organ vendors, and acts that facilitate illicit removal and implantation of an organ.” She notes that nations that sign the convention will be required to establish all of these acts as criminal offenses under domestic law.

A symposium on organ trafficking and the convention opening ceremony will take place within the next few months. Although it is still not known how many countries will attend the signing ceremony, Dr. Lopez Fraga says the committee is expecting a large number of endorsements in the coming years.

The “entry into force” of the convention will occur with five ratifications, three of which must be members of the Council of Europe. In an “Explanatory Report,” the Council of Europe Ministers’ Deputies note “this number is not very high in order not to delay unnecessarily the entry into force of the convention, but reflects nevertheless the belief that a minimum group of parties is needed to successfully set about addressing the major challenge of combatting trafficking in human organs.”

“By signing this treaty, a state indicates its intention to become a party to it,” Dr. Lopez Fraga says. “Subsequently, upon ratification of the treaty, the state expresses its consent to be legally bound by the treaty and must implement its provisions into its national legislation. They will be required to ensure that these offenses are punishable by effective, proportionate and dissuasive sanctions.”

KEY POINTS

- **Representatives from the Council of Europe, the European Union and other nations will meet early next year to sign an international treaty to enact legislation that would consistently and harshly punish those who participate in organ trafficking.**
- **The convention criminalizes the recruitment of donors and recipients for financial gain, the selling and purchase of an organ, and the removal of an organ without valid consent or authorization or in exchange for financial gain.**

Defining Criminal Activities

The convention criminalizes the recruitment of donors and recipients for financial gain; the selling of an organ (except for victims, who will be entitled to protection); the purchasing of an organ (with the possible exception of recipients); solicitation of donors or recipients for financial gain; the use of illicit means to obtain organs from a deceased person; active and passive corruption of healthcare professionals; the removal of an organ without valid consent or authorization or in exchange for financial gain; and the preparation, transportation and implantation of an illicitly removed organ. →

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According to Dr. Lopez Fraga, “the convention provides for an effective and independent monitoring mechanism (the Committee of the Parties) that will follow-up the implementation of the obligations contained in the convention. The committee will serve as a center for the collection, analysis, and sharing of information, experiences and good practice.”

States will now have the necessary tools to combat unethical practices within their own frontiers and beyond.

—Marta Lopez Fraga, PhD

She adds that “the convention identifies, for the first time, distinct activities that constitute ‘trafficking in human organs,’ which ratifying states are obliged to criminalize, and sets the basis for a sustainable international collaboration in the field. States will now have the necessary tools to combat unethical practices within their own frontiers and beyond.”

The Council of Europe has indicated that members will work in close collaboration with other international institutions, scientific bodies and advocacy groups to achieve broad support of the convention.

Reference

1. Sack K. Kidneys for sale. *New York Times*. August 17, 2014: A1.



IS AN END TO DONOR DISINCENTIVES ON THE HORIZON?

Recent articles in the *New York Times* by transplant professionals point to the possibility of future pilot projects to test the effectiveness of donation incentives. These incentives would be in the form of an end to disincentives such as transportation and lodging costs.

According to one editorial, proposed pilot projects to remove disincentives “seem consistent with the Declaration of Istanbul, a consensus statement adopted in 2008 by an international meeting of experts that aimed to increase the kidney supply while protecting poor people from illegal organ traffickers.”¹

In an additional article on the *New York Times* website, Alan Langnas, DO, chief of transplantation at the University of Nebraska Medical Center and immediate past president of the American Society of Transplant Surgeons (ASTS), and Daniel R. Salomon, MD, medical director at the Scripps Center for Organ Transplantation and the immediate past president of the American Society of Transplantation (AST), say the two organizations propose initiating an “arc of change.”² At the start of this arc are steps such as reimbursing costs of travel for evaluation and donation, they say. “But, further along the arc we need to be addressing reimbursement for lost wages and long-term health insurance that our generous donors are being asked to shoulder.”

Also in the *New York Times*, Sally Satel, a resident scholar at the American Enterprise Institute, says pilot trials could test an

arrangement whereby a state or federal government offers interested, healthy donors a benefit for donating a kidney to a stranger.³ She suggests that these financial encouragements might include a tax credit, a contribution to a retirement plan or designated charity, or early access to Medicare.

Regarding how the Council of Europe Convention Against Organ Trafficking would look at removal of disincentives by those who sign it, Dr. Lopez Fraga says the convention clearly states that criminal penalties would not apply to compensation for “loss of earnings or any justifiable expenses caused by the removal of an organ or related medical examinations, wages while recovering, medical follow-up, etc.”

“The definition of ‘trafficking in human organs,’ as per the convention, clearly includes the removal of human organs where, in exchange for removal, the donor or a third party has been offered or has received a financial gain or comparable advantage,” she says.

References

1. Editorial Board. Ways to reduce the kidney shortage. *New York Times*. September 2, 2014: A22.
2. Langnas A, Salomon DR. Remove disincentives to organ donation. www.nytimes.com/roomfordebate/2014/08/21/how-much-for-a-kidney/remove-disincentives-to-organ-donation. Published August 21, 2014. Accessed September 30, 2014.
3. Satel S. Test incentives for organ donations. <http://www.nytimes.com/roomfordebate/2014/08/21/how-much-for-a-kidney/test-incentives-for-organ-donations-theres-no-reason-not-to>. Published August 21, 2014. Accessed September 30, 2014.

David Klassen Named First UNOS Chief Medical Officer

David K. Klassen, MD, has been selected as the first-ever chief medical officer of the United Network for Organ Sharing (UNOS). He assumed his new duties October 1, 2014, after 28 years at the University of Maryland, most recently serving as medical director of the kidney and pancreas transplant programs.

Brian Shepard, chief executive officer of UNOS, says Dr. Klassen’s “experienced clinical perspective is vital in many of UNOS’ daily functions and in serving the men, women and children who depend on our national system.”

Dr. Klassen will serve as an expert medical and clinical



David K. Klassen, MD

resource to other UNOS staff, committee members, the government, and the general public in the performance of Organ Procurement and Transplantation Network (OPTN) contract requirements and other UNOS corporate initiatives. He will provide advice with respect to the medical and clinical aspects of OPTN operations, including participation in OPTN policy development, quality improvement initiatives,

professional and lay education, and research conducted by the UNOS staff in collaboration with OPTN/UNOS members. Dr. Klassen will report to the chief executive officer and assist him in developing,

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—David K. Klassen, MD

planning and implementing UNOS’ strategic direction.

“One of my personal goals is to further transplant patient and living donor safety, one of the major issues being addressed by UNOS,” he tells “The *AJT* Report.” Among his areas of interest are living kidney donation, which has been flat or declining in recent years, and living donor outcomes.

“Also, I think there are going to be a

number of important allocation issues coming up—in particular, geographic disparity. I am very anxious to be involved in policy regarding geographic disparity,” he says.

“The position of chief medical officer will likely evolve over time,” Dr. Klassen notes. “I would emphasize that UNOS as an organization is effective and runs what is a very complicated clinical enterprise quite well. I hope to be able to contribute expertise that will be used to make clinically relevant additions to policy development.”

Dr. Klassen earned his medical degree from The Ohio State University in Columbus and completed his internal medicine and nephrology training at Johns Hopkins Hospital in Baltimore. **AJT**