

**Resolution CM/Res(2013)55
on establishing procedures for the collection and dissemination of data on transplantation activities
outside a domestic transplantation system¹**

*(Adopted by the Committee of Ministers on 11 December 2013
at the 1187th meeting of the Ministers' Deputies)*

The Committee of Ministers, in its composition restricted to the representatives of the States Parties to the Convention on the Elaboration of a European Pharmacopoeia (ETS No. 50),²

Considering that the aim of the Council of Europe is to achieve greater unity between its member States and that this aim may be pursued, *inter alia*, by the adoption of common action in the health field;

Taking into account Resolution Res(78)29 on harmonisation of legislation of member States relating to removal, grafting and transplantation of human substances and the final declaration of the 3rd Conference of European Health Ministers (Paris, 16-17 November 1987);

Having regard to the 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, in particular, to Articles 19 and 20 thereof;

Having regard to the Additional Protocol to the Convention on Human Rights and Biomedicine concerning the Transplantation of Organs and Tissues of Human Origin (ETS No. 186);

Recalling the Committee of Ministers' Recommendation Rec(2001)5 on the management of organ transplant waiting lists and waiting times;

Recalling the Committee of Ministers' Recommendation Rec(2004)7 on organ trafficking;

Recalling the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108);

Taking into account the following international studies and documents:

- the Declaration of Istanbul on Organ Trafficking and Transplant Tourism, adopted in 2008;³
- Joint United Nations/Council of Europe Study on trafficking in organs, tissues and cells, and trafficking in human beings for the purpose of the removal of organs;⁴
- the WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation adopted by the World Health Assembly in May 2010;⁵

Recognising that, in facilitating the transplantation of organs in the interest of patients in Europe, there is a need to protect individual rights and freedoms and to prevent the commercialisation of parts of the human body when retrieving, exchanging and allocating organs;

¹ When this resolution was adopted:

- in accordance with Article 10.2.c of the Rules of Procedure of the Ministers' Deputies, the Representatives of Germany and Romania reserved the right of their governments to comply with it or not.

² Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and United Kingdom.

³ Adopted at the International Summit on Transplant Tourism and Organ Trafficking organised by the Transplantation Society and the International Society of Nephrology, Istanbul, Turkey, 30 April-2 May 2008. Available at http://www.edqm.eu/medias/fichiers/The_Declaration_of_Istanbul.pdf (last accessed 10/04/2013).

⁴ Available at www.coe.int/t/dghl/monitoring/trafficking/Docs/News/OrganTrafficking_study.pdf (last accessed 10/04/2013).

⁵ Available at <http://www.who.int/transplantation/TxGP08-en.pdf> (last accessed 10/04/2013).

Considering that:

- there is a worldwide gap between the number of patients waiting for an organ and the number of organs available, and that this gap is increasing;
- there is large inequality in access to transplantation and healthcare among Council of Europe member States;
- national legal frameworks vary considerably with regard to transplantation activities, as do competent authorities in terms of organisation, human resources and other resources;
- organs may cross regional or national borders as part of exchange programmes or through multinational organ-sharing organisations;

Considering the fact that procurement and transplantation activities (including patient follow-up) are organised in different ways in each member State, making it difficult for some member States to collect data on illicit transplantation activities performed outside the framework of a domestic transplantation system;

Acknowledging that such data on illicit transplantation activities performed outside the framework of a domestic transplantation system would enable each member State to:

- reinforce health safety for patients and improve protection of donors who receive payments for organs and transplanted patients;
- improve the management of information given to patients on waiting lists;
- follow-up on the development of this phenomenon over time;

With the aim of elaborating legislation to prevent illicit activities and to establish a strong legal framework in order to support regulated cross-border co-operation in the field of organ donation and transplantation,

Recommends that the governments of States Parties to the Convention:

- adopt procedures and methods for the regular collection of data on patients going abroad to be transplanted with an organ retrieved as a result of illicit transplantation procedures performed outside the framework of a domestic transplantation system;
- designate a contact person in charge of data collection on illicit transplantation activities. This contact person should be based at the existing national transplantation body or, alternatively, at the ministry of health in those member States where a national transplantation body does not exist or is not in charge of following-up on transplantation activities;
- develop and implement an appropriate tool for data collection on illicit transplantation activities or use the model questionnaire or any other tool provided in the appendices of the Council of Europe Guide to the quality and safety of organs for transplantation⁶ in its existing version at the date of adoption of this resolution or in subsequently amended versions;
- ensure the contact person disseminates data-collection tools to transplantation centres;
- ensure the regular collection of data on illicit transplantation activities and the compilation of results;
- communicate the results to the Secretariat of the European Committee on Organ Transplantation (Partial Agreement) (CD-P-TO) of the Council of Europe with a view to analysing and discussing such results within the CD-P-TO and informing member States.

⁶ Available at www.edqm.eu/en/EDQM-Publications-Blood-TransfusionOrgan-Transplantation-Guides-1131.html