

# WMA STATEMENT ON MEASURES FOR THE PREVENTION AND FIGHT AGAINST TRANSPLANT-RELATED CRIMES

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## PREAMBLE

In 2017, almost 140,000 solid organ transplants were performed worldwide. Although impressive, this activity provided for only 10% of the global need for transplanted organs. The disparity between supply and demand of organs has led to the emergence of transplant-related crimes, including trafficking in persons for the purpose of the removal of organs and trafficking in human organs.

These crimes violate fundamental human rights and pose serious risks to both individual and public health. The true extent of transplant-related crimes remains unknown, but it is estimated that 5% to 10% of transplants globally take place in the context of the international organ trade, often involving transplant tourism to destinations where laws against the sale and purchase of human organs are nonexistent or poorly enforced. Trafficking in persons for the purpose of the removal of organs and trafficking in human organs can also take place within the boundaries of a given jurisdiction, not involving travel for transplantation. In all cases, the most vulnerable parts of the population often become victims of exploitation and coercion.

Concerned by the increasing demand for organs and by emerging unethical practices in the field, the World Health Organization has called on governments and health professionals to pursue self-sufficiency in transplantation, through strategies targeted at decreasing the burden of diseases treatable with transplantation and increasing the availability of organs, maximising donation from the deceased and ensuring the overall protection of the living donor. Progress towards self-sufficiency in transplantation is consistent with the establishment of official cooperation agreements between countries to share organs or to facilitate patients' access to transplant programs that have not been developed in their countries of origin. Agreements between countries should be based on the principles of justice, solidarity and reciprocity.

Progress towards self-sufficiency in transplantation is the best long-term strategy to prevent transplant-related crimes.

The distinctive feature of transplant-related crimes is the necessary involvement of health professionals. It is precisely this feature that provides a unique opportunity to prevent and combat these crimes. Health professionals are key in evaluating prospective living donor and recipient pairs. They also care for desperate patients who are vulnerable and at risk of engaging in illicit transplant activities. In addition, since patients who receive a transplant require long-term specialised care, physicians must deal with the many challenges of providing care to patients who have received an organ through illicit means, while unveiling trafficking rings.

International organisations, including the Council of Europe, the European Union and the United Nations, as well as international professional platforms, have developed treaties, resolutions and recommendations for a concerted fight against transplant-related crimes.

The WMA emphasises the responsibility of physicians in preventing and combatting trafficking in persons for the purpose of the removal of organs and trafficking in human organs, as well as the important role of physicians and other health-care professionals in assisting international organisations, medical associations and policy makers in the fight against these criminal activities.

In the fight against transplant-related crimes it is of utmost importance that the principles of transparency of practice, traceability of organs and continuity of care are guaranteed for every transplant procedure performed nationally or abroad.

The WMA reaffirms its [Statement on organ and tissue donation](#) and its [Declaration of Sydney on the determination of death and the recovery of organs](#). Condemning all forms of trafficking in persons for the purpose of the removal of organs and trafficking in human organs, the WMA calls for the implementation of the following recommendations.

## RECOMMENDATIONS

## **Policy makers and health actors:**

1. Governments should develop, implement and vigorously enforce legislative frameworks that prohibit and criminalise trafficking in persons for the purpose of the removal of organs and trafficking in human organs, these should include provisions to prevent these crimes and protect their victims.
2. Governments should consider ratifying or acceding to the United Nations Convention against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, as well as the Council of Europe Convention against Trafficking in Human Organs. They should also consider cooperating with existing international organisations for a more effective fight against transplant-related crimes. The WMA should play a leading role in influencing ethical practices in donation and transplantation.
3. Health authorities should develop and maintain registries to record information regarding each organ recovery and transplantation procedure, as well as information on the outcomes of living donors and organ recipients, to ensure the traceability of organs, with due regard to professional confidentiality and personal data protection. Registries should be designed to record information on procedures that take place within a country and on transplant and living donation procedures on residents of that country carried out in other destinations.
4. Countries are encouraged to periodically contribute this information to the Global Observatory on Donation and Transplantation developed in collaboration with the World Health Organization.
5. Health authorities and medical associations should ensure that all health professionals are trained in the nature, extent and consequences of transplant-related crimes, as well as in their responsibilities and duties in preventing and fighting these criminal activities and in the means to do so.
6. As self-sufficiency is the best long-term strategy to prevent transplant-related crimes, health authorities and policy makers should develop preventive strategies to decrease the burden of diseases treatable with transplantation and increase the availability of organs.
7. Increasing organ availability should be based on the development and optimisation of ethically sound deceased donation programs following the determination of death by neurological and by circulatory criteria. Of note is that donation after the determination of death by circulatory criteria is accepted in a limited number of countries. Governments should explore whether donation after the circulatory determination of death is a practice acceptable within their community and, should this be the case, consider introducing it within their jurisdiction.
8. In addition, governments should develop and optimise living donation programs based on recognised ethical and professional standards and ensure due protection and follow-up of living donors.
9. Health authorities and/or insurance providers should not reimburse the costs of transplant procedures that have occurred in the context of transplant-related crimes. However, the costs of medications and post-transplant care should be covered, as for any other transplant patient.
10. Authorities should also ensure that medical and psychosocial care is provided to victims of trafficking in persons for the purpose of organ removal and of trafficking in human organs. Consideration should be given to effective compensation of these persons for the damage suffered.
11. National Medical Associations should advocate for and cooperate with authorities in developing frameworks for health professionals to report any confirmed or suspected case of trafficking of persons for the purpose of the removal of organs and of trafficking in human organs to the relevant authorities. National Medical Associations should advocate for the ability of health professionals to report suspected trafficking of individual persons, on an anonymous basis if necessary, to protect the safety of the reporter. Where applicable, the reporting of trafficking cases should be a permitted exception to the physician's obligation to maintain patient confidentiality

## **Physicians and other health professionals:**

12. Physicians should never perform a transplant using an organ that has been illicitly obtained. If there are reasonable concerns about the origin of an organ, the organ must not be used. If a physician or a surgeon is asked to perform a transplant with an organ that has been obtained through a financial transaction, without the valid consent of the donor or without the authorisation required in a given jurisdiction, they must refrain

from performing the transplant and should explain the reasons to the potential recipient.

13. Physicians who participate in the preoperative evaluation of potential living donors should not only assess the medical suitability of the individual, but also attempt to ensure that the person has not been subject to coercion of any kind or is participating in the procedure for financial gain or any other comparable advantage. The legitimacy of the donor-recipient relationship and the altruistic motivations for donation should be scrutinised. Physicians should be particularly vigilant of “red flags” suggestive of a transplant-related crime. Non-resident living donors may be particularly vulnerable and should be given special consideration. For linguistic, cultural and other reasons, assessing the validity of their consent to donation can be especially challenging, as can ensuring that appropriate follow-up is offered to them. A referring physician should be identified in the country of origin of the living donor – and in that of their intended recipient, where appropriate.
14. Physicians should never promote or facilitate the engagement of patients in transplant-related crimes. Moreover, they should inform patients of the risks these activities pose for their own health, that of their loved ones and, more generally, for public health. Patients should also understand that these activities entail an exploitation of vulnerable individuals who may themselves suffer from severe medical and psychosocial complications. By counselling patients, professionals may dissuade them from engaging in illicit transplant activities.
15. Physicians have a duty to care for transplant patients, even if their organ was illicitly obtained. Should a physician have ethical or moral objections about caring for a patient who has received an illicit organ, they should make the necessary arrangements to transfer the care of the patient to another physician.
16. Physicians should contribute to guaranteeing transparency of practices and traceability of organs. When patients who have undergone a donation or a transplantation procedure abroad seek follow-up care in their country of residence, all relevant information should be recorded in national transplant-registries and reported to health authorities, as should happen for all donation and transplantation procedures performed within the national transplant system.
17. . Physicians have a responsibility to increase the deceased donor pool in order to satisfy the transplantation needs of patients. Physicians also have a duty towards possible organ donors in considering and facilitating organ donation if this is consistent with patients’ values and principles. Donation should be routinely offered as an option at the end of life, always in a respectful manner, taking into account the culture and religion of the potential donor and their surrogates. Conversations about donation opportunities should be led by experienced and trained professionals.
18. Physicians should promote research in the field of donation and transplantation, in particular research targeted at increasing the availability of organs for transplantation, improving the outcomes of transplanted organs, and identifying alternative organ replacement strategies, as in the case of bioartificial organs.