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**Criminological Analysis of the Crime  
concerning Organ Trafficking**

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**Abstract:** The object of this scientific study is the criminal phenomenon of organ trafficking, a phenomenon that tends to turn into a trade whose object is vital organs of living persons. The risk of delayed implementation of the legal norms of incrimination makes it impossible for the acts of illegal harvesting or transplantation of organs, tissues or cells of human origin from living donors, to be investigated by the state bodies. The result of this approach consists in to issue a warning and to provide predictable remedies able to improve the normative framework of incrimination. In conclusion, it is required that legal norms qualifying the acts of organ harvesting from living people for commercial purposes should be observed and taken in the internal legislative plan.

**Keywords:** criminal phenomenon; criminal phenomenon; the normative framework of incrimination

While organ transplantation is increasingly used as a medical treatment, the main factor limiting its application remains the lack of available organs.

In general, the kidney is the most commonly transplanted organ, being a life-saving solution for patients with *end-stage renal failure*. Living donors can donate a kidney and a part of the liver. Equally, heart and liver transplantation is frequently practiced. Other organs such as the lungs, pancreas and small intestine can also be transplanted. And it should also be taken into consideration that new types of organ transplants are being worked on. It should be mentioned that all organs can be donated after death.

Currently, organ transplant surgeries literally make the difference between life and death for hundreds of thousands of people around the world. Surgeries improve the life quality of patients, often being the most effective treatment, and sometimes they are the only way to treat liver, lung and heart failure.

It should be mentioned that, organ trafficking is constantly increasing because, there are many patients who need a transplant and who are on waiting lists both in Romania and throughout Europe, the result being that a significant number of patients die due to the chronic lack of organs and that at present there is no exclusive database both in Romania and in the European Union in which to find all the necessary data regarding the organs destined for donations or transplants or regarding the living and deceased donors, data from the registers/national databases of Member States and international organizations, and the number of organ donors is declining<sup>2</sup>.

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<sup>2</sup> <https://www.cotidianul.ro/de-ce-scazut-numarul-donatorilor-de-organe>.

It should be noted that *organ trafficking* draws attention to the link between organ shortage and *organ trafficking*, as organ trafficking impairs the credibility of the system in the opinion of potential volunteers and unpaid donors; it stresses that any commercial exploitation of organs is unethical and contrary to the most basic human values; it points out that any organ donation motivated by financial interests degrades the gesture of donating an organ, turning it into a commodity, which is a violation of human dignity, which is contrary to Article 21 of the Convention on Human Rights and Biomedicine and is prohibited in accordance with Article 3 (2) of the Charter of Fundamental Rights of the EU.

In the new Criminal Code<sup>1</sup>, *organ trafficking* is provided by article 384 which states that: “The removal of tissues, or organs from *a corpse*, without right, shall be punished with imprisonment from 6 months to 3 years or with fine.” Prior to the modification by Law no. 187/2012, this offense was provided, in a similar form, in article 154 of Law no. 95/2006<sup>2</sup>. Unlike the previous regulation, the new Criminal Code only incriminates harvesting of tissues or organs from *a corpse*, and not *the harvesting or transplantation of organs, tissues or cells of human origin from living persons*.

From the current regulation, the variant of committing the crime by *harvesting or transplanting organs, tissues or cells of human origin from living persons* was removed.

This offense is a phenomenon whose size is alarming, being a phenomenon with major impact on the social and economic environment, favored by globalization and the use of modern technologies, which affects both the member states of the European Union and the candidate states. Romania has adapted its national and international legislation in order to align with the joint efforts of other states to combat organ trafficking.

In the European Union, the legal framework that defines the standards for *organ transplantation* is provided for in Directive 2010/53/EU of the European Parliament and of the Council of 7th of July 2010 on quality and safety standards for human organs intended for transplantation<sup>3</sup>. It aims to ensure that donors and recipients are guaranteed the same quality, safety and legal standards, regardless of where they live, meaning that it includes certain stages, namely: donation, testing, evaluation, harvesting, preservation, transportation and *organ transplantation*. The Directive entered into force on the 26th of August 2010, and EU countries were required to transpose it into national law by 27th of August 2012.

Furthermore, in order to support the implementation of this basic deed, the Commission has proposed and adopted, in close cooperation with the EU national authorities, the Commission Implementing Directive 2012/25/EU laying down information procedures for the exchange, between Member States, of human organs intended for transplantation<sup>4</sup>.

The adaptation of the national legislation involves a whole legislative package, offering law enforcement bodies the possibility to act in order to reduce the phenomenon and aligning Romania with international standards in the field.

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<sup>1</sup> The new Criminal Code adopted by Law no. 187 of 24.10.2012, published in the Official Monitor no. 757 of 12.11.2012, for the implementation of Law no. 286 of 17.07.2009, published in the Official Monitor no. 510 of 24.07.2009, with effect from the 1<sup>st</sup> of February 2014.

<sup>2</sup> Law no. 95 of 14th of April 2006 (republished) on the health reform published in the Official Monitor no. 652 of 28<sup>th</sup> of August 2015.

<sup>3</sup> Approved by the Emergency Ordinance no. 35 of 27<sup>th</sup> of June 2012 for the modification and completion of some normative acts in the health field, published in the Official Monitor no. 434 of 30<sup>th</sup> of June 2012.

<sup>4</sup> Order no. 613 of 29th of May 2014 for the approval of the information procedures for carrying out the exchange of human organs intended for transplantation between Romania and the other Member States of the European Union, issued by the Ministry of Health, published in the Official Monitor no. 416 of 4<sup>th</sup> of June 2014.

In this regard, the National Working Group against Trafficking in Persons and Migrants draws public attention to the lack of coherent regulation in the field of *illegal harvesting of organs, tissues or cells of human origin from living or deceased persons*, which makes Romania represent a paradise for organ trafficking and tourism for transplant.

Being a criminal activity, there is no exact information on the actual number of victims of *organ trafficking* in the EU. It is estimated that between 2013 and 2014, 12% of victims of human trafficking in the EU were exploited for purposes that include, inter alia, organ harvesting.

As an example, a new area of organized crime is the *trafficking of human organs* for transplantation. As the technology of long-term preservation of human organs improves, it is expected that the black market in this area will expand.

At the same time, it should be taken into account that the notion of *tissue harvesting* mentioned in the provisions of article 384 of the Criminal Code is a distinct provision compared to the harvesting and transplantation of organs provided by art. 158 paragraph (1) of Law no. 95/2006 which states that: “The organization and/or the *harvesting of organs and/or tissues* and/or cells of human origin for transplantation, in order to obtain a material profit for the donor or organizer, constitutes the offense of trafficking in organs and/or tissues and/or cells of human origin and shall be punished with imprisonment from 3 to 10 years “.

In this regard, the High Court of Cassation and Justice has decided that the provisions of art. 158 paragraph (1) of Law no. 95/2006 incriminates the organization and/or carrying out the harvesting and/or transplantation of organs, tissues or cells of human origin in order to obtain a material profit for the donor or organizer, and in the provisions of art. 159 of Law no. 95/2006, the introduction in or removal from the country of organs, tissues or cells of human origin without the special authorization issued by the National Transplant Agency is incriminated. Organizing or carrying out the harvesting of stem cells, by a company with activity in the field of human health, based on contracts aimed at harvesting, transporting, processing and storing in cryogenic conditions the stem cells preserved, as well as making available to the parties, upon request, the preserved stem cells, with the payment of the expenses related to the operations provided in contracts, legally carried out under the contracts, *does not meet the constituent elements of the crime of trafficking in organs, tissues or cells of human origin*, provided in art. 158 paragraph (1) of Law no. 95/2006, since this offense involves organizing or carrying out the harvesting of cells of human origin in order to obtain a material profit for the donor or organizer, as illicit profit. If the transport of stem cells abroad, for the purpose of processing and storing under cryogenic conditions, was carried out *without the special authorization* issued by the National Transplant Agency, the constituent elements of the offense of removal from the country of cells of human origin *without the special authorization* issued by the National Transplant Agency, provided in art. 159 of Law no. 95/2006<sup>1</sup>.

The absence of an organ trafficking offense in the current criminal law makes it impossible for *the acts of illegal organ harvesting and trafficking* to be investigated by the DIICOT or investigated by other state organs, and even more so, a member of the family of a deceased patient cannot file a complaint with regard to possible illegal organ harvesting.

See the case of Iacob Iulian, an assumed intermediate of organs and key-witness in the case file of the surgeon Mihai Lucan<sup>2</sup>. The Luncan case is not an isolated one, but the acts of illegal organ harvesting

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<sup>1</sup> Decision no. 3021 of 7<sup>th</sup> of October 2013 rendered by the Criminal Section of the High Court of Cassation and Justice *with the object of trafficking in organs, tissues or cells of human origin*, rendered in file no. 25448/3/2011.

<sup>2</sup> <https://www.riseproject.ro/traficantul-de-organe/>.

and organ trafficking cannot be investigated by DIICOT (as can be seen in this case) or investigated by other state bodies because these crimes *do not exist in national criminal law*. Moreover, article 21 of Law 46/2003<sup>1</sup> on the rights of the patient extends the confidentiality of the personal data of the patient even after his death, including in relation to the family. National law presumes, absurdly, that the patient would not give his consent for the family to find out what was the cause of death, which makes impossible any complaint with regard to possible illegal organ harvesting.

Also, the National Working Group against Trafficking in Persons and Migrants continued their research in the field during 2017, using national and international expertise, and sent to the Ministry of Justice, in September 2017, amendments to the Criminal Code in order to cover the *illegal organ trafficking*, but in full debate of the modification of the laws of justice and of the Criminal Codes, the Special Commission for the laws of justice headed by the former Minister of Justice Florin Iordache, did not consider it necessary to take these amendments, considering that it is not necessary to take these amendments, therefore the offenses regarding *organ trafficking* and tourism for transplanted remain outside the scope of the national criminal law.

Given the lack of comprehensive and coherent regulation of offenses in the field of illegal harvesting and transplanted, as well as *trafficking in organs*, tissues or cells of human origin, the National Working Group against Trafficking in Persons and Migrants supported by the Association “European Centre for Education and Legal Research”, the World Foundation “Doctors against Forced Organ Harvesting - Europe Office” and the German Foundation “Friedrich Ebert Stiftung”, requested in September 2017 the Ministry of Justice to amend the Criminal Code in order to regulate this field as follows:

- Modification of the provisions of art. 384 Criminal code, corroborated with the provisions of art. 154 paragraph (1) of Law 95/2006 with the following normative proposal, namely: “Illegal harvesting or *illegal transplantation of organs*, tissues or cells of human origin *from living persons*, is a crime and shall be punished with imprisonment from 3 to 10 years and prohibition of certain rights” and “Illegal harvesting of organs, tissues or cells of human origin *from a corpse* is punished with imprisonment from 3 to 10 years and prohibition of certain rights”;
- Modification of the provisions of art. 157 paragraph (1) of Law no. 95/2006 with the following normative proposal, namely: “Requesting, mediating, organizing or carrying out illegal harvesting of organs, tissues or cells of human origin in order to obtain a material benefit *for oneself or for another*, constitutes a crime and shall be punished with imprisonment from 3 to 10 years and the interdiction of certain rights” and “the preparation, reception, storage, transport or illegal transfer of organs, tissues or cells of human origin or the purchase thereof for the purpose of transplanting, trading or obtaining material benefit for himself or for another shall be punished with the punishment provided in paragraph 1, in conjunction with “Organ trafficking committed by a civil servant in the exercise of his duties shall be punished with imprisonment from 5 to 12 years”.

Furthermore, *tourism for illegal transplantation* as well as *advertising for the sale or purchase of organs, tissues or cells* must be regulated by introducing certain normative proposals, namely: “Tourism for illegal transplantation means the procurement of the necessary resources (organs/donor, beneficiaries, specialists, transplant centres, necessary equipment or other resources) used for the purpose of transplanting foreign patients and illegally performed or undermining Romania's ability to offer transplant services to its own population. Tourism for illegal transplantation shall be punished with

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<sup>1</sup> Law no. 46 of 21<sup>st</sup> of January 2003 regarding the rights of the patient, published in the Official Monitor no. 51 of 29<sup>th</sup> of January 2003, with entry into force 30 days from the date of publication in the Official Monitor of Romania, Part I.

imprisonment from 2 to 7 years and the prohibition of certain rights”, namely: “Promoting, encouraging, facilitating, intermediating or advertising the procurement of human organs, tissues or cells or illegal transplantation thereof shall be punished with imprisonment from 3 to 10 years, in the case of a vital organ, and from 2 to 7 years in the case of other organs, tissues or cells”.

In the proposal for request, regarding the amendment of the Criminal Code, an important element that must be modified are the provisions of art. 21 of Law no. 46/2003 regarding *the rights of the patient* with the following normative proposal, namely: “All the information on the patient's condition, the results of the investigations, the diagnosis, the prognosis, the treatment, the personal data are confidential even after his death, *except for the family members*. The patient can request the extension of the confidentiality of the personal data after the death also *in relation to the family members*”.

Another important aspect is the modification of Law no. 96/2006 regarding the reform in the field of health, under the aspect that, Romania, to date, has not regulated the “*presumed agreement*” in the case of organ donors, being the only country in the European Union. We are talking about situations in which people in clinical death have not specified during their life if they agree that their organs will be used to save other lives. Although the waiting list contains more than five thousand people, and in 20 years only a thousand Romanians have benefited from transplantation, the authorities do not rush to solve this problem. The presumed agreement (consent) means that if a person has not expressed in the course of his life the disagreement regarding the donation of organs for transplantation, then these organs can be harvested without the family's consent. Due to the fact that almost all European countries have this law in one form or another, the number of organ donors has increased considerably.

In Romania, this system works in part, namely that the decision belongs to the family, the donation agreement can only be signed by the family after declaring brain death. In the states in which the *presumed agreement* operates, it is not necessary to sign an explicit agreement, but it is sufficient that, during life, said person has not objected against the donation of organs according to the national law. Most European states have in their legislation the *presumed agreement* system, with the exceptions being, for example, Germany, England, Holland and Romania. In Japan, if a person wants to donate organs after the declaration of brain death, he or she must file this option on a donor card, but the family must also consent to both brain death declaration and/or organs or tissues donation. Technically speaking, the family agreement means that the family does not object to the harvesting. The donation agreement of a deceased person can be demonstrated in several ways. There are several registry or donor card systems. In the case of registries, the most common situation is the one in which each citizen can register his option to refuse the donation and this option must be respected. Another option is for the citizen to sign a legalized document or a donor card. In this situation the signed option must also be respected. In the case of donation from the deceased patient, the closest relative has an extremely important role. Legal differences may arise in the way of involving relatives.

In Romania, the decision does not belong to the deceased, but to the closest relative. Basically, no organ or tissue can be harvested without the express written consent of the family according to annex 4 to Law 95/2006 on health reform. All of these principles should be observed by all members of the transplant team and, as we have shown, these principles are applied in all states, but the law may differ from state to state. It is important that these principles are also observed in practice, because “any intervention in the field of transplantation must be carried out in compliance with professional standards and obligations”.

Until 2010, there was a much more restrictive legislation in the field of tissues and cells at European level than the legislation for organs. During the year, the Directive 2010/53/EC of the European

Parliament and of the Council for setting quality and safety standards of human organs intended for transplantation emerged, which had to be transposed by all EU Member States into national laws until August 2012.

Regarding the implementation of Directive 2010/53/EC, as a comparative law study, I mention that it has been introduced in German criminal law since 2012, in Section 6 - Regulations on the prohibition of trade in organs and tissues (§ 17) which provides that:

- (1) The trade in organs or tissues intended for the treatment of another person shall be prohibited.
- (2) It shall also be prohibited to remove the organs or tissues that are the subject of prohibited transactions in accordance with paragraph (1), sentence 1, in order to transfer them to another person or to transfer them<sup>1</sup>.

Also, in Section 7 - Regulations on sanctions and fines (§§ 18-20) it is provided that:

- (1) Anyone who transacts in an organ or tissue contrary to phrase 1 of section 17 (1) or who removes, transfers or has an organ or tissue removed, transferred or transferred in accordance with section 17 (2) shall be punished with a custodial sentence up to five years or with a fine.
- (2) If the offender acts commercially in the cases of paragraph 1, the punishment shall be a sentence of imprisonment from one to five years.
- (3) The attempt shall be punishable.
- (4) The court may refrain from penalties, in accordance with paragraph 1, for donors of organs or tissues whose organs or tissues have been the subject of a prohibited activity and for recipients of organs or tissues or may reduce the penalty at its sole discretion (section 49 (2) of the Criminal Code)<sup>2</sup>.

The new law amending the Law on transplant and tissues entered into force on the 1st of August 2012 and primarily serves the implementation of the European Directive on transplants (2010/53/EU), which should set uniform standards for the quality and safety of *organ transplantation* in Europe.

In addition, it was agreed that in the future, every adult in Germany should be regularly asked about his or her willingness to donate organs; The relevant letters should be sent by mid-2013. This so-called “decision-making solution” shall apply from 01.11.2012 (the law governing the decision-making in the Transplant Law)<sup>3</sup>.

The offense of *illicit trafficking in human organs* is included in the Spanish Criminal Code in article 156 bis, recently amended by Organic Law 1/2019, of 20th of February, which amends Organic Law 10/1995, of November 23, of the Criminal Code, for transposition of European Union *directives*<sup>4</sup>.

The wording of this article provides that those who in any way promote, favour, facilitate, advertise or execute *trafficking in human organs* shall be punished with a sentence of imprisonment from six to twelve years in the case of a living person's organ and with the imprisonment from three to six years in the case of a deceased person's organ. In the following sections of this article, practitioners and civil servants, in particular (for bribery reasons), members of organizations engaged in these activities, legal persons, challenge, conspiracy or proposal to commit these crimes are also punished etc., aspects

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<sup>1</sup> <https://dejure.org/gesetze/TPG/17.html>.

<sup>2</sup> <https://www.buzer.de/gesetz/1570/a22317.htm>.

<sup>3</sup> <https://www.hrr-strafrecht.de/hrr/archiv/12-08/index.php?sz=11>.

<sup>4</sup> <https://www.iberley.es/temas/delito-trafico-organos-46511>.

mentioned also in the Criminal Law and Criminology Magazine no. 11.p.147-148, from Pablo de Olavide University, in Sevilla, Spain<sup>1</sup>.

The definition of the *organ trafficking* offense and its characteristics are regulated in article 156 bis, recently amended by Organic Law 1/2019, of 20th of February, which provides that:

(1) Those who, in any way, promote, favour, facilitate, advertise or execute *trafficking in human organs* shall be punished with a sentence of imprisonment from six to twelve years in the case of a living person's organ and with the imprisonment from three to six years in the case of a deceased person's organ.

To begin with, it is convenient to mention the Preamble of Organic Law 5/2010, of 22nd of June, which amends Organic Law 10/1995, of 23rd of November, of the Criminal Code, which states that: “In response to the increasing phenomenon widespread of the sale of human organs and to the message of the various international forums to resolve their punishment, the illegal obtaining or trafficking of human organs has been incorporated as a crime, as well as their transplantation.

In 2004, the World Health Organization has already declared that the sale of organs was contrary to the Universal Declaration of Human Rights, urging doctors not to perform transplants if they suspected the organ was the subject of a transaction. Recently, at the international summit on transplant tourism and *organ trafficking*, organized in May 2008, representatives from 78 countries agreed on the so-called “Istanbul Declaration”, where it is noted that these practices violate the principles of equality, justice and respect for human dignity and must be eradicated. And, although our Criminal Code already takes into account these behaviours in the crime of injury, it is deemed necessary to grant a different treatment to the mentioned activities, punishing all those who promote, favour, facilitate or advertise the illegal obtaining or trafficking of other human organs or their transplantation. In this framework, it was considered that the beneficiary of the organ that, knowing the illegal origin, consents to perform the transplant, should also be incriminated, with the possibility of moderating the criminal sanction depending on competing circumstance<sup>2</sup>.

As a jurisprudence in Spanish criminal law, the decision no. 710/2017, rendered by the Supreme Court, Criminal Chamber, Rec 2411/2016, of 27th of October 2017, will be used as an illustrative example. It is stated therein that the appellant knew about the existence of the National Transplant Organization (the public transplant system) and had been informed immediately of the existence thereof and decided not to follow it, but to procure an organ from a person who, because of his financial need, agreed with the intervention in exchange for money. The awareness of the illegality can be demonstrated by the behaviour of the appellant and his family, in circumstances that reveal the clandestine nature of the conduct, anticipating and giving money to the alleged donor, being aware of his situation of need that is exploited through this conduct. This secrecy is also demonstrated by the visit he made to the notary and by the subsequent violent reaction to receiving the news about the repentance of the donor who sought to express the condition of friend and the altruistic nature of the donation. No error can be deduced from any extract from the factual account, the reason being rejected.

The appellant explains his reason for the need arising from the disease and the urgent need to remedy it, which the Court does not deny, but the legal system and the public health system are the ones that offer a solution to their problem. The remedy cannot, in fact, be pursued by the accused, being required to

<sup>1</sup> <http://revistas.uned.es/index.php/RDPC/article/viewFile/24536/19429>.

<sup>2</sup> <https://blogextranjeriaprogestion.org/2019/02/21/trafico-de-organos-trata-de-personas/>.

comply with the public transplant system and the principles that inform the legal system in this matter, such as altruism, gratuity, solidarity and objectivity in the assignment of organs for transplantation<sup>1</sup>.

In the Italian criminal code, the provisions of art. 601 Criminal Code are the following:

(1) Anyone who recruits, introduces on the territory of the state, also transfers outside the state, transports, gives authority to the person, hosts one or more persons who are sentenced to imprisonment for eight to twenty years mentioned in article 600, that is to say, has the same conduct on one or more persons, by deception, violence, threat, abuse of authority or exploitation of a physical, mental situation of vulnerability or inferiority of necessity or by promise or giving of money or other benefits for the person who has authority over it, to induce them or force them to work, to be sexual or to beg or, in any case, to carry out illegal activities that involve their exploitation or to submit to organ harvesting.

(2) Everyone who is subject to the same sentence, even outside the terms mentioned in the first paragraph, shall perform the conduct provided for in this regard towards a minor.

(3) The penalty for the captain or officer of the national or foreign vessel, who commits any of the offenses referred to in the first or participating in the second paragraph, shall be increased to one third.

The crew member of a domestic or foreign ship intended on the route, prior to departure or while sailing, shall be punished, even if no act provided for in the first or second paragraph or in the slave trade, with imprisonment from three to ten years<sup>2</sup>.

Moreover, article 601 bis Criminal Code regulates the trafficking of organs taken from a living person, which provides that:

(1) Anyone who transacts, sells, buys or, in any way and for any reason, illegally, procures or treats organs or parts of organs taken from a living person, shall be punished with imprisonment from three to twelve years, and fine from € 50,000 to € 300,000.

Anyone who performs a mediation in the donation of living organs to obtain an economic advantage shall be punished with imprisonment from three to eight years and with a fine from EUR 50,000 to € 300,000.

If the offenses referred to in the preceding paragraphs are committed by a person exercising a health profession, the sentence shall be followed by a perpetual prohibition from exercising the profession.

Unless the offense constitutes a more serious offense, they shall be punished with imprisonment from three to seven years and with a fine from EUR 50,000 to € 300,000. notices concerning the trafficking of organs or parts of organs referred to in paragraph (1)<sup>3</sup>.

Another example, regarding the crime of *organ trafficking*, is also regulated in the Swedish Criminal Code, which prohibits the harvesting of organs from a person without valid consent. The provisions regarding the incrimination of certain organ manipulations are partly found in the Criminal Code on trafficking in human beings and partly in the special legislation on organ transplantation in human beings.

In short, the provisions provide the following:

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<sup>1</sup> <https://www.iberley.es/temas/delito-traffic-organos-46511>.

<sup>2</sup> <https://www.brocardi.it/codice-penale/libro-secondo/titolo-xii/capo-iii/sezione-i/art601.html>.

<sup>3</sup> <https://www.brocardi.it/codice-penale/libro-secondo/titolo-xii/capo-iii/sezione-i/art601bis.html>.

in chapter 4 Paragraph (1) of the Criminal Code provides that anyone, by unlawful compulsion, deception, exploitation of the harassment exposed to anyone or any other inappropriate means recruits, transports, transfers, hosts or receives a person in order to be exploited for the removal of organs in a situation involving suffering for the vulnerable, shall be sentenced to imprisonment for at least two years and a maximum of ten years. Anyone who commits such an act against a person who has not reached the age of eighteen years shall be convicted for trafficking in persons, even if such unfair means have not been used<sup>1</sup>.

## Conclusions

An important consequence of this study is the need to amend the Criminal Code, Law no. 96/2006 on the reform in the field of health, as regards the regulation of the “presumed agreement” in the case of organ donors, with the indications of the Directive 2010/53/EU of the European Parliament and of the Council of 7<sup>th</sup> of July 2010 on quality and safety standards related to *human organs intended for transplantation*, which urges the Member States to amend the Criminal Code, in order to guarantee the proper criminal prosecution of the persons guilty of organ trafficking and the provision of sanctions applicable to the medical-sanitary personnel involved in the transplantation of organs from trafficking, and to make, at the same time, all efforts necessary to discourage any possible recipients from obtaining organs and tissues from trafficking.

These measures should include the criminal liability of European citizens who have purchased organs inside or outside the Union, meaning that Member States are required to adapt their national legislation to the international legislation in order to align with the joint efforts of other states to combat organ trafficking and to take all necessary measures to prevent medical and healthcare personnel from facilitating *organ and tissue trafficking* (for example, by directing a patient to a foreign transplant service that might be involved in trafficking) and to prevent health insurance providers from encouraging activities that directly or indirectly promote *organ trafficking* (for example, reimbursement of costs incurred for obtaining an *illegal organ transplant*).

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Law no. 95 of 14<sup>th</sup> of April 2006 (republished) on the health reform published in the *Official Gazette* no. 652 of 28<sup>th</sup> of August 2015.

(30<sup>th</sup> of June 2012). Approved by the Emergency Ordinance no. 35 of 27<sup>th</sup> of June 2012 for the modification and completion of some normative acts in the health field. *Official Gazette* no. 434.

(4<sup>th</sup> of June 2014) Order no. 613 of 29<sup>h</sup> of May 2014 for the approval of the information procedures for carrying out the exchange of human organs intended for transplantation between Romania and the other Member States of the European Union, issued by the Ministry of Health. Published in the *Official Gazette* no. 416.

Decision no. 3021 of 7<sup>th</sup> of October 2013 rendered by the Criminal Section of the High Court of Cassation and Justice with the object of trafficking in organs, tissues or cells of human origin, rendered in file no. 25448/3/2011.

<https://www.cotidianul.ro/de-ce-scazut-numarul-donatorilor-de-organe>.

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<sup>1</sup> <https://finlex.fi/sv/laki/ajantasa/1889/18890039001>.

<https://www.riseproject.ro/traficantul-de-organe/>.

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