# The trade in human organs and human trafficking for the purpose of organ removal

## An exploratory study into the involvement of the Netherlands and Europe

« waakzaam en dienstbaar »

POLITIE

# The trade in human organs and human trafficking for the purpose of organ removal

## An exploratory study into the involvement of the Netherlands and Europe

Jessica de Jong

Translated into English by a translation agency

*Edition*
Police
Central Unit
Central Intelligence Division (DLIO)
Mailbox 3016
2700 KX Zoetermeer
The Netherlands

*Colophon*
*Dutch text* Jessica de Jong
*English translation* External translation agency, the Netherlands

Woerden, May 2015
Copyright © 2015 – DLIO Woerden

Except where otherwise provided by law and except as otherwise expressly stated in this publication, nothing in this publication may be reproduced and/or made public in any form or in any way, whether electronically, mechanically, by photocopy, recording or in any other way, without the prior written consent of the National Police.

This publication is compiled with the utmost care. The author(s), editors and the National Police do not accept liability for any information that might be incomplete or incorrect. Suggestions for possible improvement of the data included in this publication will be appreciated.

# Foreword

Dodgy hotel lobbies and physicians with questionable morals. Every cliché we know comes along in the 2013 documentary in which journalists of the Dutch TV program *Brandpunt* look for opportunities to buy a kidney abroad. Unfortunately, gaining insight into the global organ trade all too often depends on the hidden camera. Therefore I'm very content with the research that has been conducted in the context of this publication and the efforts that in recent years have been undertaken by the HOTT project.

Little by little we gain insight into the relationship between the Netherlands and organ trafficking and human trafficking for the purpose of organ removal. This publication makes an important contribution by gathering recent signals from different sources. Together with recent research by the Erasmus MC, showing that a large proportion of the surveyed transplant professionals has come into contact with kidney patients who travelled abroad for a transplant, this document makes clear that organ trade also involves the Netherlands.

The clear relationship with the Netherlands first of all requires awareness - public awareness, but also awareness among medical professionals and the government. It is important that knowledge about organ trafficking and related human trafficking is available within law enforcement authorities. The gathered knowledge in this document can contribute to the insight that is needed to make the right decisions within the law enforcement chain, and to initiate criminal investigations with the appropriate luggage.

The National Police of the Netherlands is not able to do this alone. The cross-border nature of these issues means investigations can only be adequately addressed within international collaboration, within "an organized government against organized crime." It is reassuring that the formal structure for this collaboration is present. The existence of Interpol, Europol and Eurojust should be seen as an incentive to establish investigations into human trafficking for the purpose of organ removal, in addition to investigations into other forms of human trafficking.

An experimental attitude of investigation is necessary. Therefore, I hope that this document will be widely adopted in the police organization. The serious nature of the crimes and gross human rights violations that accompany this type of trafficking, justify this.

C.E. Dettmeijer-Vermeulen
*National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children*

# Acknowledgements

This publication could not have been realized without the information made available by the Expertise Centre for Human Trafficking and Human Smuggling (EMM), the Royal Netherlands Marechaussee (KMar), the Immigration and Naturalisation Service (IND), the Central Agency for the Reception of Asylum Seekers (COA), the Coordination Centre for Human Trafficking (CoMensha), the Tax and Customs authorities, Crimestoppers NL and – with regard to the Dutch findings of the HOTT project – the Erasmus MC; thanks to all concerned. In addition, the following individuals are thanked for providing comments on earlier versions of this document: Frederike Ambagtsheer (coordinator HOTT project), Rutger Rienks, Lonneke van Hout and Ewout Stoffers (Central Unit of the National Police of the Netherlands), Luuk Esser (Bureau of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children) and Michael Bos (former staffer at the Health Council of the Netherlands and the Eurotransplant Foundation).

# Contents

1. Introduction ..... 11
1.1. Preface ..... 11
1.2. Definition of concepts ..... 12
1.3. Methodology ..... 13
1.4. Legal and ethical context ..... 14
1.5. Background information ..... 16

2. Trade in human organs ..... 21
2.1. Trade in human organs in the Netherlands ..... 21
2.2. Trade in human organs in Europe ..... 23
2.3. Transplant tourism from the Netherlands ..... 24
2.4. Transplant tourism from Europe ..... 28

3. Human trafficking for the purpose of organ removal ..... 31
3.1. Human trafficking for the purpose of organ removal in the Netherlands ..... 31
3.2. Human trafficking for the purpose of organ removal via the Netherlands ..... 35
3.3. Human trafficking for the purpose of organ removal in Europe ..... 36

4. Conclusions and recommendations ..... 41

References ..... 43

Appendix. Relevant sections of laws ..... 51

# 1. Introduction

## 1.1. Preface

The trade in human organs and in human beings with the purpose of organ removal has long been the subject of rumours and unconfirmed reports. Since the 1980s, however, and especially over the past fifteen years, journalists and scientists have documented situations which show that this type of trade is a phenomenon that occurs on all continents and involves both developed and developing countries. Although there is no reliable data about the exact scope (Council of Europe & United Nations, 2009), the number of criminal investigations and prosecutions of trafficking of human beings for the purpose of organ removal and related crimes is growing worldwide. These investigations are starting to shed more light on this phenomenon and the challenges the responsible authorities are facing (OSCE, 2013).

So far, there has been little research into the involvement of the Netherlands in the trade in human organs and in human trafficking for the purpose of organ removal. At first sight, in this context there has been hardly any evidence. Van der Leun and Vervoorn concluded in 2004 that the trade in human organs was virtually non-existent in the Netherlands (Van der Leun & Vervoorn, 2004). In 2006, this was confirmed by the Dutch Board of Procurators General in the *Instructions for Combating Human Trafficking* (College van procureurs-generaal, 2006). In 2007, the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (hereinafter referred to as National Rapporteur) also stated that commercial organ transplants were not or very rarely conducted for the benefit of Dutch patients (Bureau of the National Rapporteur on Trafficking in Human Beings (BNRM), 2007). In 2012, based on statistics provided by the Eurotransplant Foundation[1] and the Dutch Transplant Foundation (NTS)[2] concerning the number of Dutch citizens who travelled abroad for an organ transplant (also referred to as 'organ tourism' or 'transplant tourism'[3])[4], the National Rapporteur once more reported that cases of organ trafficking in relation to the Netherlands were hardly known.[5] This also applies to human trafficking for organ removal; in 2012, the National Rapporteur reported five possible cases since 2005 (BNRM, 2012), the year the offence of human trafficking was extended to include organ removal (Article 273f Dutch Penal Code).

However, given the long waiting list and the average waiting time of three to five years for a postmortal donor kidney, it is not inconceivable that the trade in organs and in persons who are trafficked for the purpose of organ removal occurs more often in relation to the Netherlands than is documented. The shortage of available organs leads to approximately 200 deaths a year in the Netherlands because patients have to wait too long for a donor kidney.[6] As a result, patients start looking for donor kidneys via relatives and the Internet, either in their own country or abroad. Journalists and scientists have shown several times that Dutch citizens are willing to donate a kidney for payment[7] and that the statutory non-commercial nature of the transaction is not always properly checked in the Netherlands. This increases

---

[1] The Eurotransplant Foundation is responsible for the allocation of organs from deceased donors in seven countries: the Netherlands, Belgium, Luxembourg, Germany, Austria, Slovenia and Croatia. Each country has its own national waiting list and patients from Eurotransplant countries may only be added to one waiting list (*House of Representatives* 2008/09, 28 140, nr. 62).
[2] The Dutch Transplant Foundation is a non-profit organisation providing services to transplant centres and hospitals in the Netherlands and providing information to the public about tissue and organ donation (www.transplantatiestichting.nl).
[3] These terms are controversial, because they do not take into account the desperate motives of the patients and fail to reflect on ethical issues (Shimazono, 2007).
[4] In 2010, the Minister for Public Health, Welfare and Sport asked the Eurotransplant Foundation about the reasons for outflow of the waiting lists for organ transplantation. When a person disappears from the list for unclear reasons, this might be an indication for a possible illegal transplant. In 2010, 'transplantation outside a Eurotransplant country' was stated twice as reason for outflow. Because it is possible that the actual reason of outflow remains unknown, the Minister consulted the NTS as well. In 2008, the NTS made enquiries at the eight kidney transplant centres in the Netherlands about the number of Dutch citizens who had travelled abroad for the purpose of a transplant. From 2005 to 2007, five cases were reported (BNRM, 2012).
[5] In 2012, the National Rapporteur recommended further research into individuals who disappear from the waiting list for unclear reasons. At the end of 2012, the NTS suggested to the Minister for Public Health, Welfare and Sport that the Dutch results of the HOTT project (see text box 1 in paragraph 1.3) may provide more insight into 'suspicious' developments with regard to organ donation. Furthermore, the NTS suggested further research in cooperation with the Eurotransplant Foundation to discover why patients disappear from the waiting list without clear reasons (*Proceedings II* 2012/13, no. 2334). When asked about the status of this research, the NTS replied that they are awaiting the results of the HOTT project (personal communication, August 2014).
[6] www.nierstichting.nl/nieren/onzenieren/feiten-en-cijfers
[7] See paragraph 2.1 on the trade in human organs in the Netherlands.

the chance of organ trafficking, in which coercive measures may have be used (human trafficking). Although potential cases of transplant tourism are not being reported, it is apparent from the statistics of the NTS and from research by the National Rapporteur (2007) that since 2000 several dozen Dutch citizens travelled abroad for an organ transplant.[8] Scientific studies have shown donors in the destination countries are often trafficked.[9]

In the Netherlands, the supervision of the commercial organ trade prohibition falls under the responsibility of the National Healthcare Inspectorate (IGZ). The police is responsible for the detection and prosecution of trafficking in human beings for the purpose of organ removal.

### Objective

This publication discusses the findings of an exploratory study into the trade in human organs and trafficking of human beings for the purpose of organ removal in relation to the Netherlands, *with the aim of increasing insight into and knowledge of this type of crime.* To place the findings in a wider perspective, attention has also been given to criminal investigations and prosecutions that have occurred in other European countries over the past fifteen years.

### Reader's guide

The next paragraphs discuss the key concepts, the methodology, the legal and ethical context and provide background information. Chapter 2 discusses organ trafficking incidents in the Netherlands and Europe. Chapter 3 addresses human trafficking incidents for the purpose of organ removal in the Netherlands and Europe. The final chapter, chapters 4, presents the conclusions and recommendations.

## 1.2. Definition of concepts

According to Article 1b of the Dutch Organ Donation Act, an **organ** is: 'a part of the human body, other than blood and reproductive cells'. The trade in human tissues did not form part of this study.

The following definitions were derived from the seventh report on Human Trafficking of the National Rapporteur (BNRM, 2009).

**Organ tourism/transplant tourism:** travelling abroad to receive an organ for implantation involving the trade in human organs and/or commercial organ donation, or when the resources (organs, healthcare professionals and transplant centres) used by the foreign patient for transplantation undermines the capacity of the country in question to provide transplant services to its own population.

**Organ trade:** offering to sell and actually selling an organ, buying an organ and acting as an intermediary with a profit motive and/or intentionally transplanting a trafficked organ, between the buyer and seller.

**Human trafficking for the purpose of organ removal:** using coercive measures to recruit, transport or house another person with the purpose of removing that person's organs or having them removed.

This study focuses on living donors, because Dutch human trafficking legislation does not apply to deceased persons. In addition, in the Netherlands it would be virtually impossible to illegally obtain an organ from a deceased donor. According to the National Institute for Health Promotion and Disease Prevention (NIGZ), the origin of every organ transplanted in the Netherlands is known and the registration and checks carried out ensure that it is not possible for a 'black market for organs' to develop (BNRM, 2007). Recent reports from Germany demonstrate that it is possible to manipulate the waiting list system to become eligible sooner for an organ from a deceased donor.[10]

[8] See paragraph 2.3 on transplant tourism from the Netherlands.
[9] See paragraph 1.5 for background information of this phenomenon.
[10] Since 2012, Germany has started three criminal investigations following reports of alleged manipulation of waiting lists for organ transplants. Transplant doctors with a good reputation allegedly prescribed increased dosages of medication to heart and liver patients to cause an apparent deterioration of their condition and improve their position on the waiting list for a donor organ. The

## 1.3. Methodology

The data collection in the Netherlands has been carried out with the consent of the Minister of Security and Justice and the Board of Procurators General. The data is collected over the research period 2005 to 2013[11] through targeted searches in registration systems of the National Police, the Immigration and Naturalisation Service (IND), the Royal Netherlands Marechaussee (KMar), the Central Agency for the Reception of Asylum Seekers (COA) and the Coordination Centre for Human Trafficking (CoMensha). The Expertise Centre for Human Trafficking and Human Smuggling (EMM)[12] played a significant role in this respect. Additional research was carried out into incidents recorded by the Customs authorities, the Fiscal Intelligence and Investigation Service of the Tax authorities (FIOD), Crimestoppers NL and the eleven human trafficking experts of the police. Scientific studies, studies from international organisations, documentaries and media reports were also reviewed. To place the findings into a wider perspective, media and literature were searched for criminal investigations and prosecutions in other European countries. In addition, Europol and human trafficking police experts in other European countries were asked about the situation in Europe. The incidents found were described anonymously on the basis of underlying documentation and interviews with the authorities involved. This publication also includes the Dutch findings of the HOTT project; an international scientific research project into human trafficking for the purpose of organ removal (see text box 1). Prior to publication, a draft version of this document was presented to the Dutch Minister of Security and Justice, the Board of Procurators General and to the Dutch and foreign authorities that had provided information for the purpose of this study.

Text box 1. HOTT project 'Combating trafficking in persons for the purpose of organ removal'
Erasmus MC coordinates an international scientific research project into human trafficking for the purpose of organ removal (HOTT project), funded by the European Commission Directorate General Home Affairs. The project started in November 2012 and will end in October 2015. The Central Unit of the National Police of the Netherlands is an associated partner of the HOTT project and the author of this publication is one of the team's researchers. The objectives of the project are to increase knowledge, raise awareness and improve the non-legislative response by writing a literature review, conducting a study on transplant tourism, analysing international prosecuted cases and organizing a symposium. Additional information about the project can be found at www.hottproject.com.

Although the research methods used have brought incidents to light that have not previously been identified and analyzed, it must be emphasized that the findings have an incomplete character. Human trafficking is often hidden from government agencies. The criminal activities take place in secret or have the appearance of legality. Victims do not want or dare to make themselves known, or may not realize they are victims. The international character of human trafficking and the principle of medical confidentiality further impede the detection and investigation of the criminal activities. In addition, human trafficking for the purpose of organ removal is an unknown type of human trafficking; the authorities in question lack knowledge and experience, which is why law enforcement of this type of crime is practically non-existent.

doctors are suspected of offences such as bribery, aggravated assault and attempted manslaughter because of the possible danger they have caused to the lives of other patients on the waiting list (Bartens & Mayer, 22 August 2014; Berndt, 2 January 2013; 13 January 2014).

[11] As is mentioned earlier, in 2005 the offence of human trafficking was extended to include organ removal.

[12] The EMM is an alliance between the Central Unit of the National Police, the Royal Netherlands Marechaussee (KMar), the Immigration and Naturalisation Service (IND), the Social Affairs and Employment Inspectorate (ISZW) and the Aliens Police Support Service (TOV). The EMM collects information and knowledge in the field of human trafficking and human smuggling and makes this information available to investigative services and partners.

## 1.4. Legal and ethical context[13]

The Netherlands has a passive donor registration system: everyone who is twelve years or older and lives in the Netherlands can register his or her wishes concerning organ- and tissue donation in the Donor Registry. There is no obligation to register a choice. To become a donor, a person must give explicit consent for organ removal after death. This decision can also be left to the relatives.[14] There have been political debates about the alternative, an active donor registration system (ADR) or a 'no objection'-system, where anyone who has not registered objection is considered a donor.[15] This debate did lead to a legislative proposal[16] but, to date, has not led to fundamental changes in the Dutch organ donation policy.

The conditions for voluntary donation are set out in the 1996 Organ Donation Act (see appendix). The most important conditions are the explicit prior consent of the donor (article 8) and donation for no consideration (article 2). According to the legislator, the donor's freedom of choice cannot be guaranteed if there is a profit motive, which might even lead to exploitation (*House of Representatives* 1991/92, 22 358, no. 3). The intentional removal of an organ without consent is a criminal offence under article 32 of the Organ Donation Act, punishable by a prison sentence of no more than one year and a fine in the fourth category (EUR 19,000). A person who openly offers a commercial fee for receiving an organ or who offers him- or herself as a donor or intermediary for a commercial fee, is punishable as well. Organ trade is prohibited, regardless of the voluntariness of the buyer and seller. The National Healthcare Inspectorate (IGZ) is responsible for monitoring compliance with the Organ Donation Act.

On the basis of article 2 of the Dutch Penal Code[17] and the principle of territoriality,[18] the Organ Donation Act also applies to foreigners who are located in the Netherlands. To Dutch citizens who offer themselves for a commercial fee as donor, recipient or intermediary outside the Netherlands applies the principle of dual criminality: a Dutch citizen is only punishable if the country where the act took place defines the conduct as a criminal offence as well.[19] With the exception of Iran, the commercial trade in organs is prohibited worldwide (Malakoutian et al., 2007).[20] To prove that an offence has been committed, it must be shown that the paid or received fee exceeds the costs incurred as a direct consequence of the removal of the organ[21] and that reception of the gift was intended (article 2 jo. article 32 Organ Donation Act).

Although the law prohibits the trade in organs, worldwide there is an on-going ethical debate about financial compensation for donors. Those in favour state that offering compensation will lead to more available organs (Radcliffe Richards, 2012; Working Group on Incentives for Living Donation, 2012; De Castro, 2003; Erin & Harris, 2003). Opponents expect that any incentive for living donors will result in a declining urgency for postmortal donation. This is problematic for those patients who are dependent on deceased donors, such as heart patients. In addition, opponents state that a financial incentive will put pressure on deprived persons to donate an organ; this would have an adverse effect on the voluntariness of the donation (Danovitch & Delmonico, 2008; Scheper-Hughes, 2002). Scheper-Hughes, professor of anthropology and chair of Organs Watch,[22] argues that commercialization of the human body inevitably

[13] Dutch legislation is bound by a number of conventions at European and national level. In addition, there are various (not legally binding) guidelines, directives and statements, drawn up by organizations that are involved in international organ donation or in combating the trade in human organs and human trafficking for the purpose of organ removal. Such agreements originate from the United Nations, the Council of Europe, the European Union, the World Medical Association (WMA), the International Society of Nephrology (ISN) and The Transplant Society (TTS), all of which fall outside the scope of this study.

[14] In the Netherlands, over 5,7 million people have registered their choices with regard to organ donation. Nearly half of those people have given consent without limitations. Nearly 12 per cent have given consent with restrictions, and more than 12 per cent have left the decision to their next of kin or another designated person. 27,5 per cent have not given consent for donation (www.donorregister.nl/english).

[15] See, for example, the political emergency debate about an active donor registration system on 18 February 2010 (*Proceedings II* 2009/10, no. 57) and the letter from the Minister for Public Health, Welfare and Sport to the President of the House of Representatives on 8 February 2011 (reference GMT/IB 3036648).

[16] In August 2012, a private member's bill for the ADR was presented by Dijkstra (D66, Dutch political party). On the advice of the Council of State, the bill was amended in January 2014. The next of kin can now prevent donation.

[17] "The Dutch law is applicable to anyone who commits a criminal offence in the Netherlands."

[18] On the basis of the principle of territoriality, the Dutch state is competent to prosecute in the Netherlands the perpetrator of any criminal offence committed in the Netherlands.

[19] Extraterritorial jurisdiction is regulated in articles 5, 7.3 and 8c of the Dutch Penal Code.

[20] The regulated organ market in Iran is only accessible for persons with the Iranian nationality.

[21] These expenses are reimbursed by the healthcare insurer of the recipient and will not come at the expense of the donor.

[22] Organs Watch is conducting research into the worldwide trade in human organs.

leads to exploitation (2002). A financial reward can also be provided in instalments and without cash payments, for example by exempting donors from healthcare insurance premiums for the rest of their lives, as proposed by the Dutch Council for Public Health and Care (Raad voor de Volksgezondheid en Zorg, 2007).[23] This would inhibit people in dire financial straits from donating a kidney (Van Dijk, Ambagtsheer & Weimar, 2011). A survey carried out by the Erasmus MC showed that 46 per cent of the Dutch population feels that financial compensation for organ donation is undesirable, while 25 per cent feels that compensation is acceptable and considers exemption from healthcare insurance premiums to be the most acceptable form. Financial compensation could be an additional incentive to donate for 18 per cent of the population (Kranenburg, 2007). To date, the question of whether financial incentives would result into more living organ donations and would combat the illegal trade remains unanswered.[24]

In the Netherlands, the intentional removal of an organ without consent of the donor is a criminal offence under the Organ Donation Act. Under certain circumstances, the illegal trade in organs falls within the criminalization of human trafficking (article 273f Dutch Penal Code, see appendix), with a heavier threat of punishment. On 1 January 2005, with the implementation of the Palermo Protocol and the EU Framework on Human Trafficking,[25] the scope of the human trafficking article was extended (Raad van Europa, 2002; United Nations, 2000). According to paragraph 1 sub 1 of article 273f, anyone who uses any means to recruit, transport, transfer, harbour or receipt another person for the purpose of removing that person's organs is punishable for trafficking in persons. In this context, means refers to coercion, the threat or use of force or another factuality, extortion, fraud, deceit, abuse of power derived from factual circumstances, abuse of a vulnerable position, or the giving or receiving of payments or benefits in order to achieve the consent of a person having control over another person. The use of any of these means to compel or persuade someone to provide his or her organs (sub 4) also equates to human trafficking, as does intentionally deriving advantage from the removal of another person's organs, while the perpetrator knows or may reasonably suspect that the organs were removed under coercion (sub 7). Furthermore, anyone who forces another person to let him benefit from the proceeds of organ removal is punishable.[26] When the victim is a minor (under the age of 18), there does not need to be the use of any means (sub 2 and 5).[27] After the implementation of the EU Directive human trafficking (2011/36/EU)[28] on 15 November 2013, the requirement of double criminality was set aside in the Netherlands (*Bulletin of Acts and Decrees* 2013, no. 445).[29] This means that a Dutch citizen who commits the offence of human trafficking outside the Netherlands is punishable under article 273f of the Dutch Penal Code, even if the act is not prosecutable in the country where it took place. Human trafficking without aggravating circumstances is punishable in the Netherlands with a prison sentence of maximum 12 years or a fine in the fifth category (EUR 76,000).[30] If any of the described offences result in severe physical or life-threatening injury

[23] Following the recommendations of the Council for Public Health and Care, this exemption was suggested by the authors of the article *Wet tegen orgaanhandel is dode letter (The law against the trade in human organs is a dead letter)* (Van Dijk, Ambagtsheer & Weimar, 2011) and the authors of the book *Nier te koop, baarmoeder te huur (Kidney for sale, womb for rent)* (Geesink & Steegers, 2011). In 2012, the National Rapporteur argued for a closer examination of the possibilities of offering organ donors a 'personal' reward such as life-long exemption from healthcare insurance premiums (BNRM, 2012).

[24] The Minister for Public Health, Welfare and Sport had announced that he would adopt a position on the principle of non-commerciality in the first quarter of 2012, but in response to an inquiry of the National Rapporteur the Minister stated in July 2012 that because of the controversial nature of this issue, he would delay the adoption of a position until the next Cabinet had been formed (BNRM, 2012; *House of Representatives* 2011/12, 28 140, no. 82). To date (August 2014), the new Cabinet which came into office in November 2012 has not dealt with this matter.

[25] Article 3a of the Palermo Protocol considers organ removal as a form of exploitation, but the EU Framework explicitly avoids this term. For this reason, the legislator has added the removal of organs *alongside* exploitation in the human trafficking article (*House of Representatives* 2003/04, 29 291, no. 3).

[26] A profit motive is not a necessary component of human trafficking for the purpose of organ removal, but it is fairly self-evident that most criminals who commit this offence act from a profit motive (BNRM, 2007).

[27] Sub 4 requires proof of means being used, also in case of a minor. It should be noted that medically it is possible to transplant the organ of a child into the body of an adult (United Nations Office on Drugs and Crime, 2006).

[28] The legislative proposal to implement this Directive (*Senate* 2012/13, 33 309, no. A) was adopted unanimously by the House of Representatives on 2 April 2013. The Senate passed the proposal on 5 November 2013 without voting.

[29] An extra subsection has been added to article 5a of the Dutch Penal Code which specifically makes Dutch criminal law applicable to any alien who has a permanent place of residence in the Netherlands and who is guilty of an offence under article 273f of the Dutch Penal Code outside the Netherlands.

[30] However, organ removal seems to be an aggravating circumstance by definition: generally, it could be argued that there is abuse of a vulnerable position (paragraph 3.3 and 6) and possibly of violence (paragraph 3.3) and/or severe physical or life-threatening injury (sub 4) that could possibly even lead to death (sub 5).

(paragraph 4) or death (paragraph 5), the perpetrator becomes liable to a fine in the fifth category and either a prison sentence of no more than 18 years or to imprisonment for life of maximum 30 years.

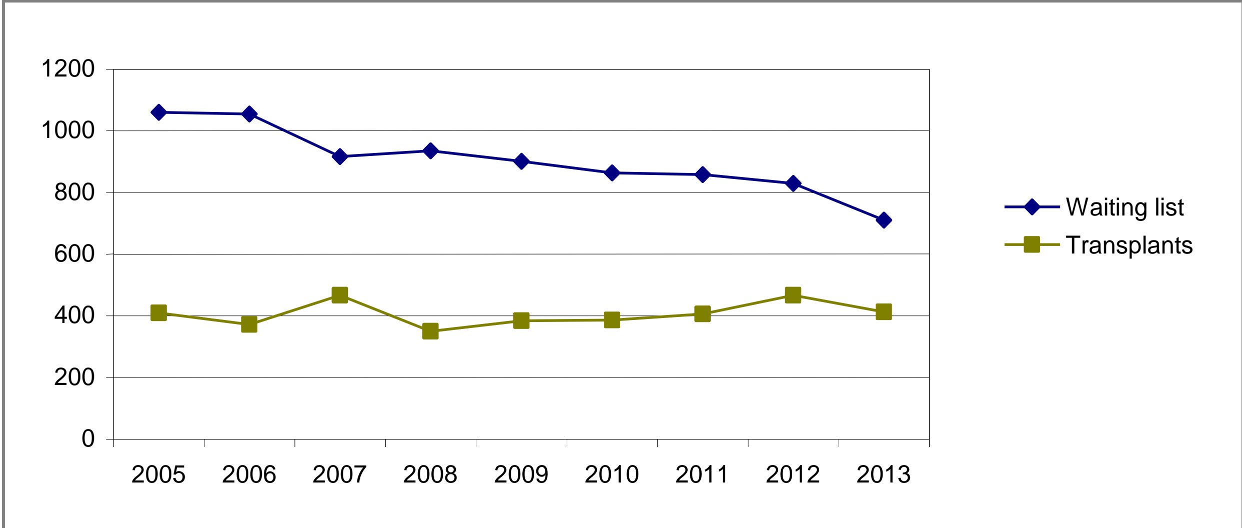
## 1.5. Background information

Since four decades organ transplantation is a standard medical procedure. An organ transplant can be conducted with an organ from a deceased donor (postmortal donation) or an organ from a living donor (living donation). It is no longer impossible to receive an organ from a blood relative, because a high level of tissue compatibility between a living donor and a recipient is no longer necessary. The medical world has sufficient expertise and means to counteract rejection (and infections). These developments have led to a growing demand for donor organs. In 2012, over 68,000 people were registered on national waiting lists for a kidney transplant in Europe (Council of Europe, 2014). The kidney is the most donated and most transplanted organ. Although it is possible to donate a part of a liver or a lobe, these forms of living donation involve greater risks and are far less common.[31] Although the number of kidney transplants carried out in the Netherlands is slowly increasing, partly because of the number of living donations, there is still a structural shortage of postmortal organ donors. This results in an imbalance between the number of patients waiting and the number of transplants (see graph 1 on the next page).

Because of this structural shortage of suitable postmortal organ donors, the average waiting time in the Netherlands for a transplant with a postmortal donor kidney is three to five years. This can lead patients to start searching for a donor via the Internet or via relatives, either in their home countries or abroad. In his literature review on the organ trade, in 2007 carried out at the request of the World Health Organization, Shimazono distinguishes four forms of *international* organ trade (see figure 1 on the next page): the recipient travels to another country where the donor and the transplant centre are located, the donor travels to another country where the recipient and the transplant centre are located, and the recipient and the donor travel from the same ór from two different countries to the country in which the transplant centre is located. In addition, the trade in organs can take place at the *national* level, with the recipient and the donor both living in the country where the transplant centre is located.

[31] The 2012 annual report of the NTS shows, for example, that in 2012 five liver transplants using part of the liver of a living donor took place in the Netherlands (www.transplantatiestichting.nl).

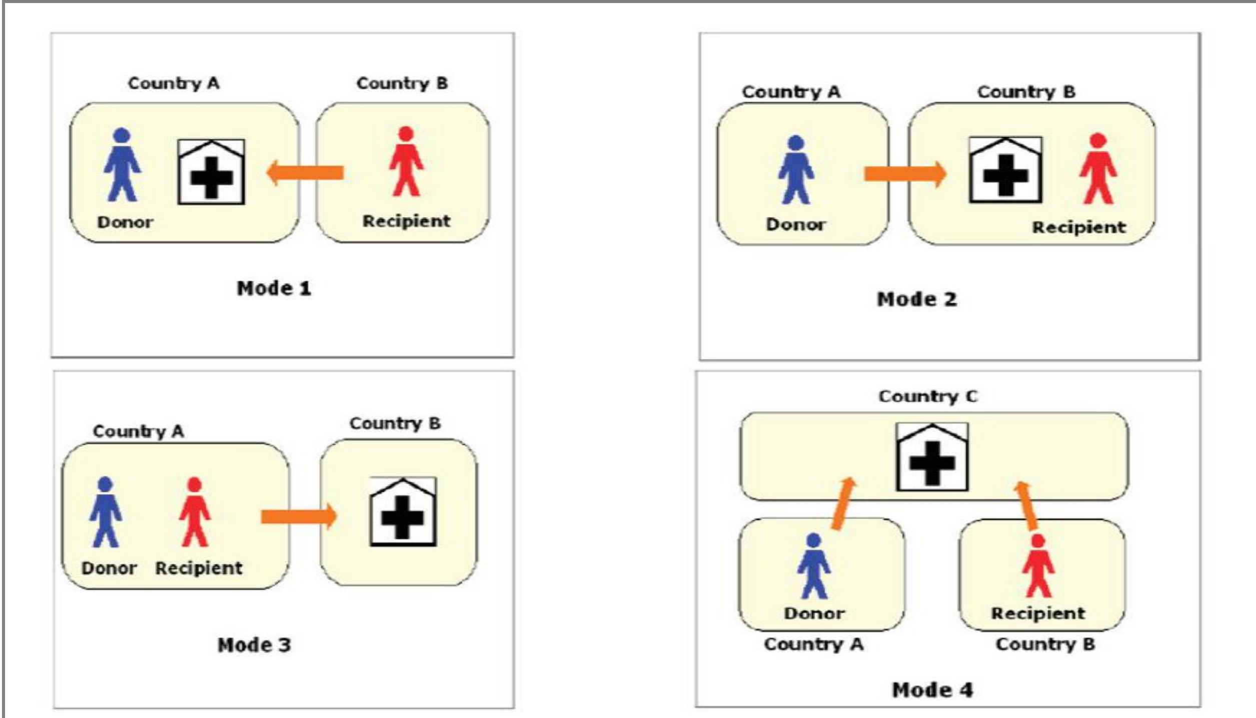
**Graph 1. The number of kidney patients on the active waiting list and the number of transplants with postmortal donors carried out in the Netherlands in the period from 2005 to 2013**




Source: Annual reports of the Dutch Transplant Foundation 2005 - 2013

Note: The active waiting list only includes patients who are transplantable and who are not eligible for a transplant with a kidney from a living donor; they do not wish to ask family or friends to donate a kidney or have not (yet) found a suitable voluntary donor. The majority of patients are not (yet) transplantable for a variety of reasons: they are too ill for a transplant or are awaiting further testing. The size of the inactive (hidden) waiting list is unknown. According to the Dutch Kidney Foundation, there are currently 6500 patients on dialysis, an alternative treatment for kidney failure.

**Figure 1. Forms of international organ trade**




Source: Presentation Shimazono, Second Global Consultation on Human Transplantation, WHO Geneva, 2007

The exact scale of the forms of trade described above is unknown. On the basis of his research, Shimazono estimates for the year 2005 that annually 5 to 10 per cent of the kidney transplants carried out worldwide are facilitated by the trade in organs – this amounts to around 3400 to 6800 illegal kidney transplants per year (Budiani-Saberi & Delmonico, 2008).[32] It is estimated that the illegal trade in organs generates an annual profit of between US$ 600 million and 1.2 billion (Haken, 2011). It is not known what percentage of the illegal transplants fall under the definition of human trafficking, but some researchers state that in practice it is difficult to identify commercial transplants where the so called-donor has *not* been subjected to exploitation (OSCE, 2013). In any case, this phenomenon is less marginal than the number of officially recorded victims would have us believe. In 2012, the United Nations Office on Drugs and Crime noted that '*trafficking for the removal of organs may appear to be limited, as it accounts for less than 0,2 per cent of the total number of detected victims. Nonetheless, during the reported period, cases or episodes of trafficking for organ removal were officially reported by 16 countries. [..] In addition, it appears that all regions are affected by trafficking for organ removal.'* (p. 38-39). The Council of Europe notes an increase, saying: *'The shortage of organs, the disparity accentuated by the economic crisis, the vast differences between health systems and the greed of unscrupulous traffickers have in recent years led to an increase in transplant tourism and human organ trafficking.'* (Council of Europe, 2014, p.1)

Scientific studies have shown that China, India and Pakistan are the main destination countries for transplant tourism. Most studies do not mention the nationality or ethnicity of the patients, or emphasize that there is some affinity with the countries to which they travel, for example because they were born there. Only a small number of studies mention that patients bought an organ, either in their home country or abroad. *'Patients are known to make payments in return for organs or organ transplantations to their donors or suppliers, to brokers, to hospitals, to companies and to doctors.'* (Ambagtsheer & Weimar, 2013, p. 31). To date, patients have hardly ever been the target of criminal prosecution, even though buying a human organ is usually a criminal offence. The reason for this might be compassion for their despair and poor health. However, patients are often approached as witnesses as they have knowledge of the criminal network that facilitated the transplant (OSCE, 2013).

In comparison with the patients, relatively more scientific research has addressed the circumstances of the donors. The donors primarily come from developing countries or from countries in which a large proportion of the population lives below the poverty line (Scheper-Hughes, 2000). The most cited reasons for selling an organ are poverty, debts and the inability to support family. The vast majority of the donors is male.[33] They usually have a low educational level and are relatively young: on average 30 years of age. This could have medical reasons: "*On the organ market, 'fresh' kidneys from young suppliers are the most desired goods."* (Lundin, Gunnarson & Byström, 2013, p. 35). The countries from which donors originate usually lack the resources to effectively prohibit and prosecute the illegal organ trade.

Often, the donors are approached by a broker or intermediary, commonly someone who has sold a kidney himself, or they are made aware of this 'opportunity to escape from poverty' by family, friends, or an advertisement in a newspaper or on the Internet. Sometimes donors place advertisements themselves offering an organ for sale (Lundin, 2011; Yea, 2010). Brokers usually have little difficulty in finding people who are willing to donate an organ in exchange for money. The sale of an organ very often appears to be voluntary, but this must be considered in light of the appalling conditions in which the donors live. In addition, the donors are usually not (well) informed about the risks involved in transplantation (Mendoza, 2010; Pearson, 2004), there is not always a proper screening process (Anker & Feeley, 2012; Evans, 2008), they receive little or no medical aftercare and do not always receive the promised payment (which usually lies between US$ 1,000 and 10,000), or they only receive the money in exchange for recruiting other donors (Mendoza, 2010; Yea, 2010; Pearson, 2004). It is also known that coercion is used against

[32] His estimation is based on the fact that in 2004 and 2005 at least 100 patients from countries like Saudi Arabia, Taiwan, Malaysia and South-Korea and at least 20 patients from Australia, Japan, Oman, Morocco, India, Canada and the United States annually travelled abroad for a commercial kidney transplant. In 2006, 8,000 kidney transplants were carried out in China using donor organs from executed prisoners - this number alone already represents 10 per cent.

[33] With the exception of donors from India. According to the anthropologist Cohen, women in India are operable when they have fulfilled their reproductive responsibilities, whereas men remain inoperable in their role of bread-winner (United Nations, 2006; Cohen, 2003; Scheper-Hughes, 2003; Goyal, Mehta, Schneiderman & Sehgal, 2002).

donors who tried to back out of the transaction at the last minute (Moniruzzaman, 2012; Paguirigan, 2012). *'Choice not to have a kidney transplanted diminishes after costs are incurred from the medical examination and expectations on the part of the buyer (or the buyer's declining health) are apparently raised (all according to the brokers). Continued agreement at this point is secured under duress and pressure, despite it previously being given freely and voluntarily.'* (Yea, 2010, p. 368). For the donors, the sale of an organ rarely leads to improvement of their economic situation. Quite often, the situation actually deteriorates: many donors are unable or less able to work as a result of postoperative health problems and sometimes wrestle with psychological and social problems (Lundin, Gunnarson & Byström, 2013).

The methods of recruitment are often linked to abuse of the vulnerable economic or social position of the donors, such as poverty or illegality, as a result of which they are put under subtle pressure and are often not even aware of the seriousness of the situation. *'More subtle coercion and abuse may mean that victims are less likely to recognize themselves as victims, although by definition and experience they are trafficked.'* (Surtees, 2008, p. 60). According to Yea (2010, p. 360, 366), this refined method of recruitment and the lack of knowledge and awareness may also lead to inadequacies in the approach of the authorities responsible: *'Their [the donors'] experiences are often viewed by anti-trafficking actors as diluted forms of trafficking as they do not readily conform to the dramatic stereotypes of some other victims.' [..] 'As some of my interviewees [donors] told me, police would often come to Baseco [The Philippines] and tell the men not to sell kidneys because it was illegal, but none of the men could recall the police telling them that they could receive protections as victims of trafficking or file for compensation as such.'* The fact that a person in a vulnerable position agrees to donate an organ in exchange for financial compensation does not alter the exploitative nature of the transaction (OSCE, 2013).

The presence of a broker increases the risk of exploitation (Yea, 2010). Given the often international character of this form of trade, the broker often plays a major role: this person identifies a hospital, arranges accommodation, the necessary medical tests, identity and travel documents and transport and, if necessary, instructs patient and donor about the screening procedure in the hospital in question. A physician or the hospital can also play the role of broker (Codreanu, Ambagtsheer, Weimar, De Jong & Ivanovski, 2013). Brokers are assumed to derive the most profit from the illegal transactions (Mendoza, 2010). According to the Council of Europe and the World Health Organization, the sum paid for a kidney on the black market can be as high as US$ 200,000 (Meyer, 2006; World Health Organization, 2004; Vermot-Mangold, 2003). In recent years, the value of organs increased as a result of the growing demand and the trade in organs being a criminal offence worldwide, prompted by initiatives from the international transplant community such as the Declaration of Istanbul.[34] These factors, combined with inadequate law enforcement, are sustaining the illegal trade (Van Dijk et al., 2011). Internet plays an important role in this respect. Goodwin (2006, p. 11) describes the black market in organs as an open secret and states that '*black market transactions are part of a robust international industry with brokers traceable on the Internet*. *Third world or developing countries participants supply kidneys and other organs for Americans and other Westerners willing to shop on the black market.'* What role the Netherlands and Europe play in the context of the trade in organs and the trafficking of human beings for the purpose of organ removal will be addressed in the next two chapters.

[34] The Declaration of Istanbul on Organ Trafficking and Transplant Tourism was drawn up in 2008 by the International Society of Nephrology (ISN) and The Transplant Society (TTS). The aim of the declaration is to achieve consensus about the definitions of organ trading, transplant tourism and human trafficking for the purpose of organ removal. In addition, the declaration calls on countries to implement a legal framework with regard to organ donations and to regulate the supervision of organ donations (BNRM, 2009).

# 2. Trade in human organs

## 2.1. Trade in human organs in the Netherlands

In 2004 it became apparent for the first time that organ trade can occur in the Netherlands, when three men offered their kidney on www.nierdonor.nl in exchange for money. The owner of the website pressed charges, but the Public Prosecutions Service stated that since the advertisers did not mentioned the price they wanted for their kidney, it was not certain a financial motive was involved. Therefore the charges did not lead to prosecution (Van Schravendijk, 2006).

In the years after, Dutch broadcasters demonstrated on two occasions that people were willing to donate a kidney against payment. On 13 June 2007, in a broadcast of the news programme *EenVandaag* a man was interviewed who had offered his kidney for sale via an advertisement on the Internet. The ad stated that the price was negotiable. On 29 March 2009, the programme *Undercover in Nederland* showed hidden camera images of conversations with two persons who had offered a kidney for sale on the Internet due to financial difficulties, even though they knew it was prohibited and a criminal offence. One of them was asking EUR 35,000 for a kidney, and the other reported to have received an offer of EUR 75,000. They were convinced that it would not be difficult to mislead the hospital; to make the transplant possible, in the hospital they would pretend to be a friend helping out for altruistic reasons.

On 8 January 2011, the national daily newspaper *Algemeen Dagblad* reported that at least 24 Dutch persons had offered their kidney for sale via Dutch auction websites such as *Marktplaats* and *Speurders*. In the advertisements they asked for a financial compensation. Some advertisements stated amounts of between EUR 40,000 and EUR 80,000. A few police records also mention persons who are offering a kidney for sale on the Internet. The advertisements are often removed by the website administrators after a while. In their search for a living altruistic donor, patients place advertisements as well (broadcast *EenVandaag*, 11 June 2009), which illustrates patients' despair. Although this is legal (*Proceedings II* 2008/09, no. 3179), such advertisements could solicit responses from persons who are willing to donate an organ in exchange for a financial fee (BNRM, 2009).

Dutch people also post advertisements on foreign websites, offering themselves as a donor for a commercial fee. On 30 October 2012, in his programme *De Week van Filemon* the TV journalist Filemon Wesselink stumbled across the Belgian variant of *Marktplaats*, www.aanbod.be, where dozens of Dutch and Belgian persons offer their kidney for sale. One of the Dutch advertisers, 'Leo', was willing to be interviewed on camera by Filemon, as long as he would be disguised and his voice would be distorted. Leo was looking for a way out of his financial problems and had come up with the following construction: the recipient of his kidney would buy Leo's house for the asking price of EUR 160,000 so that Leo could continue to live there, free of mortgage. He already had a serious buyer for his kidney and indicated that in the hospital he would pretend to be an altruistic donor.

As is discussed before, when Dutch citizens offer themselves outside the Netherlands as donors, recipients or intermediaries for a commercial fee, the principle of dual criminality applies: these acts must be punishable in the country where they are committed as well. A broadcast of *EenVandaag* (11 June 2009) featured an Afghan physician in the Netherlands who tried to buy a kidney in Afghanistan for his patient. The parliamentary questions that were asked in the wake of this broadcast were answered as follows: *'Whether the physician is committing a criminal offence depends on the nationality of the physician in question and on Dutch and Afghan legislation in this respect. The Dutch law is applicable to any Dutch citizen who commits a criminal act outside the Netherlands that is classified as an offence in the Netherlands and is punishable in the country where it was committed. I cannot answer the question whether this is the case in this instance.'* (*Proceedings II* 2008/09, no. 3179). In addition, any foreigner who offers himself as donor, recipient or intermediary for a fee in the Netherlands is committing an offence under article 2 of the Dutch Penal Code and the principle of territoriality. That this is happening in the Netherlands is shown by research carried out by Ambagtsheer (2007). A transplant coordinator in the

Netherlands stated to have been approached by two men who were staying in the Netherlands without a residence permit, and who asked whether they could donate a kidney in exchange for such a permit. The transplant coordinator also stated to have been approached by two German men in financial trouble who were willing to sell their kidney for a high price.

The National Rapporteur has indicated that greater vigilance is needed now that the number of living donations is increasing in the Netherlands. She has stated that the kinship and/or emotional ties required for a living donation[35] are not always thoroughly examined, and that this entails a risk of donation for profit motive or because of coercion or manipulation (BNRM, 2007). If a patient reports to a hospital in the Netherlands together with a potential donor and both parties state that the donation is altruistic, it is difficult for medical staff to establish whether they are dealing with a commercial donation. Moreover, they have no duty to investigate. For the responsible investigative authorities it is difficult to establish whether a financial transaction has taken place between the donor and recipient as well (see text box 2).

Text box 2. Organ donatie in exchange for shares?

In 2013, the police received a report from the tax authorities that the manager of a company had donated a kidney to the owner of that company, and that a payment was allegedly made by transferring shares in the company. The matter was further complicated by the fact that the company had huge debts. Both the owner and the director, however, told the police that the donation was altruistic.[36]

Sources: tax authorities; police

Moreover, the Dutch law makes no distinction between the giving of a fee and a material gesture of gratitude. Meulenbelt (2010, p. 17) interviewed medical practitioners in the Netherlands who stated that '*people show their gratitude for the gift of an organ in different ways*' and that '*rewards come in a multitude of forms*'. From research carried out by Van Buren et al. (2010), it transpires that the repertoire of gifts prompted by gratitude can also include weekly dinners and paid holidays. In a strict legal sense, such gifts represent an offence if they are worth more than the costs that are a direct consequence of the removal of the organ and if there was intent in the receipt of the gift (article 2 co. article 32 Organ Donation Act).

Ambagtsheer's research (2007, p. 54) underlines that the criterion of a close emotional relationship between the patient and the donor is not always strictly enforced in the Netherlands. *'The interviews with the physicians indicated that as long as the donor and the patient are willing to go through with the donation (e.g. there are no indications of coercion), and there are no physical barriers that may hamper the transplant, a donation may already take place. [..] Another finding of the interviews is that physicians give more priority to possible cases of coercion between the donor and the recipient, than possible cases of trade. [..] The possible establishment of financial deals between the donor and the patient are not strictly controlled.'* Meulenbelt (2010) confirms that after a transplantation medical practitioners sometimes suspect that financial motives might have prompted the donation. Donation procedures have also been aborted if it was suspected in advance that the donor would receive financial compensation from the recipient. The findings of an anonymous survey among medical professionals in the Netherlands in 2013, conducted in the context of the HOTT project, go even further. A number of respondents indicated that they were aware of situations in which patients and donors had made a private arrangement for a commercial transaction (see text box 3). Although the extent is unknown, these findings show that commercial donations are taking place in the Netherlands. As far as is known, suspicions of this nature have not resulted in investigations by hospitals or the IGZ.

[35] Given the context, the National Rapporteur here refers to a direct or indirect donation. After all, anonymous donations where the donor and the recipient are strangers to each other do also take place in the Netherlands.
[36] Ambagtsheer (2007) mentions a similar case in which a donor told the nursing staff, after the operation, that he will receive a company from the patient to whom he had donated his kidney.

Text box 3. Medical professionals' experiences with commercial organ transplants in the Netherlands[37]

The anonymous survey conducted in the context of the HOTT project in 2013 was distributed among 546 transplant surgeons, nephrologists, nurses and social workers. Of the 241 medical professionals who completed the survey (44%), 17 respondents (7%) treated *patients*[38] between 2008 and 2013 who they suspected had bought a kidney in the Netherlands. Their suspicions arose from the behaviour of the patients concerned. One respondent stated to be sure that two commercial transactions had taken place; two patients had in fact mentioned that they had bought the kidney from the donor.

In addition, 13 respondents (5%) suspected that *donors* had sold a kidney to a patient in the Netherlands. These suspicions were raised for the following reasons: the patient and the donor quarrelled, they had no clear relationship or their stories were inconsistent, the patient and the donor had no further contact after the donation, the donor came from a weak social environment or was in a dependent relationship with the – in this particular case, rich – patient, or the donor indicated that the patient did not pay anything while he/she had been entitled to payment. One case involved a patient who came to the hospital together with a foreign donor. It was difficult to verify their relationship; the donor did not speak Dutch, but insisted that he was the patient's cousin. Two respondents were sure that commercial transactions had taken place: one donor had profited from the donation, materially and financially, and one donor told the respondent that he/she was going to be compensated by the patient.

*Not in all of the above cases it is clear when exactly the suspicions of the respondent arose, nor is it clear whether the transplant was actually conducted if the suspicions aroused before the donation.*

To date, in the Netherlands there have been no prosecutions for the trade in human organs (BNRM, 2012).[39] In 2012, the police were called by the head office of *Marktplaats* in Amsterdam, because a German woman with financial problems came there to offer her kidney for sale. The police asked the woman to leave. In 2013, the police interrogated a Dutch man who had offered his kidney for sale on *Marktplaats*. The man stated that he knew it was forbidden to offer organs for sale and apologized (police-information). Following the findings described in this document, the National Healthcare Inspectorate (IGZ) – responsible for enforcement of the Organ Donation Act – regularly searches for advertisements offering organs for sale, and investigates the case if there are sufficient indications. In two cases, this has led to the advertisers being interrogated and an official report being drawn up. These official reports will be offered to the Public Prosecution Service (email communication with an IGZ-employee, October 2014).

## 2.2. Trade in human organs in Europe

Research into incidents that have occurred in Europe show that prosecutions for the trade in human organs led to convictions in at least four European countries: Germany, Austria, Romania and Ukraine. In 2002 in Germany, a man was prosecuted for the trade in organs, an offence under the German Transplantation Act (1997). Writing on behalf of his company, he had contacted transplant clinics in the United States, offering human organs for US$ 10,000. The organs came from Eastern Europe, where he maintained contact with official government agencies. The man was found guilty on three counts of attempted commercial organ trafficking and given an 18-month suspended sentence (judgement of the Court of Munich; German Federal Criminal Division, May 2013). In 2003 in Austria, a man who offered to sell his kidney in an online advertisement for at least EUR 80,000 was prosecuted and convicted for organ trafficking. *'An Austrian man tried to sell one of his kidneys on the Internet and ended up with a four-month suspended jail sentence and a fine of £2,000 in July 2003. [...] He was hoping to use the proceeds*

[37] The survey was conducted by Ambagtsheer, Van Balen and Weimar, who all work at the Erasmus MC in Rotterdam, department Internal Medicine, section Transplantation and Nephrology.
[38] One patient is treated by various practitioners, which could lead to double counting.
[39] In comparison with Germany, for instance, where the decision to prosecute is governed by the principles of legality, the expediency principle followed in the Netherlands gives the Public Prosecution Service more scope to decide whether or not to prosecute a criminal offence.

*to help out his girlfriend's firm, which was having financial troubles. The Austrian made a full confession and said he was pleased he kept both his kidneys.'* (Computer Weekly, 2003, p. 44). In 2005, a man was convicted for organ trade in Romania. The police were alerted following a routine medical examination in a Romanian prison, where the man was serving a sentence for theft; he was found to be missing a kidney. The man told the prison doctor that his kidney had been removed for medical reasons, but no hospital record could be found to corroborate his story. During the police investigation it transpired that the man had sold his kidney to an Austrian man of Serbian origin for US$ 18,000. In 2001, the transplant had been carried out as a 'living related donation' in a hospital in Vienna (Ionescu, 2005). In 2007 in Ukraine, a mother was prosecuted for trying to sell one of her child's kidneys on the Internet. She was found guilty and sentenced to five years imprisonment (Holmes, 2009).

There are indications that the trade in organs also takes place in other European countries. In 2004, the Council of Europe sent out a survey on the subject of organ trafficking, to which six Member States responded that there had been accusations of illegal organ removal within their borders: Armenia, Estonia, Georgia, Russia, Turkey and Ukraine (Council of Europe Steering Committee on Bioethics & European Health Committee, 2004). In the UK, where organ trafficking was made punishable under the Human Tissue Act 2004 after a scandal in 1988,[40] no cases have been prosecuted (personal communication with the Human Tissue Authority, London, February 2013). However, several physicians were suspended or struck off the medical registry after they encouraged or made promises regarding the trade in organs of living donors.[41] In 2012, the Belgian authorities started a criminal investigation following an online advertisement from a Belgian man who offered his kidney for sale for EUR 75,000; this is a criminal offence in Belgium under the Removal and Transplantation of Organs Act (1986). The investigation did not lead to prosecution because it transpired that the man's action had been prompted by a severe depression (personal communication with the Federal Criminal Division, Brussels, June 2013).

## 2.3. Transplant tourism from the Netherlands

In 2007, the National Rapporteur established that no reliable information was available about the number of patients who travelled from the Netherlands to other countries for a paid transplant. Kidney specialists know of or have heard stories about patients who have undergone a transplant outside the Netherlands without the involvement of the Eurotransplant Foundation. In 2006, two medical specialists reported in the media that a number of Dutch patients had undergone an organ transplant in China (broadcast topical TV news programme *Netwerk*, 31 January 2006), and on 10 June 2011, a surgeon reported in the free daily newspaper *Metro* that a few up to a dozen Dutch people buy a kidney in Turkey or Israel every year. In the context of an exploratory study,[42] a transplant surgeon, eight nephrologists and four transplant coordinators in the Netherlands were interviewed in the context of the fifth report on trafficking in human beings by the National Rapporteur (2007). It was found that the respondents knew a total of 27 persons who had received an organ transplant in the past 10 to 15 years in the United States, India, Pakistan, Iran, Iraq, China and possibly Colombia, Singapore and Thailand.[43] Most of them were male patients with

[40] Paid organ donation was made a criminal offence in the United Kingdom under the Human Organ Transplant Act 1989 after an organ trading scandal in 1988. A highly-respected nephrologist and medical director of the National Kidney Centre in London paid Turkish donors GBP 2,000 to 3,000 to donate a kidney to his English patients. The donors were approached via advertisements in various newspapers and flew from Istanbul to London with a letter that said that they would be 'supporting a relative who was to undergo a kidney transplant'. They had not been informed about potential risks or aftercare in Turkey. The nephrologist earned approximately GBP 66,000 from each transplant and was permanently struck off the medical register. Three colleague-doctors who had also been involved in the transplants were suspended for two to three years (*BBC News*, 22 September 2000).

[41] After the organ trading scandal in 1988, another doctor was struck off the medical register in the UK in 2002. This was a doctor of Indian origin, retired since 2001, who had assured an undercover journalist from *The Sunday Times* that he could arrange a kidney transplant in the UK or in another country for a fee. No criminal investigation has been launched, because no actual trade in organs took place (*BBC News*, 30 August 2002). Shortly afterwards, another Indian doctor from the UK was suspended for six months because he encouraged two undercover journalists from *The Sunday Times* to trade in organs from living donors. They approached the doctor in connection with a report that he had arranged a paid transplantation in India for one of his patients, after which the patient died of an infection (*BBC News*, 15 October 2002).

[42] From the *Mensenhandel deelrapport Criminaliteitsbeeld 2005 (Crime Assessment on Human Trafficking)* it was apparent that the police was in need of an exploratory study into transplant tourism from the Netherlands (KLPD, Dienst Nationale Recherche, 2005).

[43] At the time, the commercial trade in organs was a criminal offence in Iraq (legislation of 1986), Singapore (1987), India (1994) and Thailand (1995). This does not apply to Colombia (legislation of 2004), China (2006), the United States (2006) and Pakistan (2007). As already mentioned, Iran has regulated the trade in organs for persons with the Iranian nationality since 1988.

a foreign background. Ethnic networks and the Internet had played an important role in terms of facilitating the transplants (see text box 4). It is often unknown who the organ donor was: a blood relative, partner or paid donor (BNRM, 2007; 2009; see also Ambagtsheer, 2007).

Text box 4. A transplant from a paid kidney donor in China

A male kidney patient of Chinese origin travelled in 2004 from the Netherlands to China for the implantation of a kidney he had bought there. At the time, the buying and selling of organs was not a criminal offence in China. His family in China found him a living male donor and helped pay for the costs of the transplant (EUR 10,000 to 50,000). The Dutch Kidney Foundation paid for his dialysis treatment in China: the man had told them he was on holiday in China and the Kidney Foundation reimburses dialysis treatment during holidays. During the preparations for the transplant abroad, the kidney patient was helped by the physician overseeing his dialysis in the Netherlands, with whom he stayed in contact while he was in China.

Sources: BNRM, 2007; Ambagtsheer, 2007

Patients with a foreign background may be more likely to travel abroad for a transplant than ethnic Dutch patients. Research shows that immigrants are often over-represented on the waiting list and therefore on average have to wait longer for a transplant. They have less confidence in the Dutch healthcare system and tend to rely more on other countries for a solution, mainly their countries of origin (Berglund & Lundin, 2012; Cronin, Johnson, Birch, Lechler & Randhawa, 2011). According to Ambagtsheer (2007), a normalized perception of the trade in human organs is also an important explanation for the decisions of immigrants to travel outside the Netherlands for paid transplants. It is also possible that physicians in the Netherlands are more forthcoming about patients of foreign origin who go abroad than about ethnic Dutch patients. *'Perhaps it is easier for physicians to deal with commercial transplant tourism when it occurs far away from their offices by foreign-born persons.'* (Ambagtsheer, 2007, p. 67). After all, it is a known fact that patients with the Dutch nationality also participate in transplant tourism (see text box 5).

Physicians in the Netherlands who are confronted with patients who have undergone a transplant abroad and suspect that the kidney came from a paid donor, do not consider it their duty to act as investigators. In the 2008 *Instructions for Combating Human Trafficking*, the Public Prosecution Service pointed out that it is desirable that medical practitioners who have a suspicion of non-voluntary organ donation should inform the patient of the possibility of pressing charges and receiving assistance from counselling agencies. Medical practitioners themselves can also report any situation of abuse that they encounter (BNRM, 2009). However, physicians are under an obligation to uphold doctor-patient confidentiality and as professional practitioners they are exempted from the notification *requirement* in respect of possible offences committed by their patients (KNMG, 2012). Professional confidentiality is not absolute, and can be breached if it brings a physician into conflict with his other obligations, for example when a physician is confronted with a patient who wants to commit an offence that will cause damage or injury to himself and/or others (Beaucamp, 2003).[44] This conflict between the duty to provide care and statutory prohibitions can lead physicians to consciously ignore signals that might indicate that a patient wishes to obtain an organ in an illegal manner or that he is returning from abroad with an organ that seems to have been acquired illegally (OSCE, 2013). Ambagtsheer's research (2007) shows that medical practitioners could consciously refrain from asking questions, so that the truth remains unknown and they feel less involved in possible illegal and unethical behaviour. During an interview one nephrologist described the issue as follows: *'I did not want to interrogate the patient, for I am his doctor and I will remain his doctor. [..] I refrain myself from knowing. [..] I believe it was my way of ostracizing. I wanted to keep my hands clean and not be accessory to things that are ethically unacceptable. I did not want to feel guilty.'* (Ambagtsheer, 2007, p. 65). To date, potential cases of transplant tourism have not been reported. The

[44] The Dutch legal framework that surrounds the breach of the principle of confidentiality (in principle punishable under article 272 of the Dutch Penal Code) is based on the notion that breaching is only permissible when there is direct danger for the patient or others that cannot be averted in some other way (subsidiarity). Moreover, the violation may not extend beyond the purpose for which it was deemed necessary (proportionality) (Van Maurik & Van der Meij, 2012).

Dutch Transplant Foundation (NTS) does register how many people disappear from the waiting list each year as a result of having had a transplant in a country that is not affiliated with the Eurotransplant Foundation. From 2002 to 2013, this concerned 34 kidney patients.[45] Patients who are not on the waiting list and travel abroad before they start dialysis treatment (see Ambagtsheer & Weimar, 2013) are not included in these statistics. It is not known to which countries these 34 patients travelled, nor from whom the kidneys came. It must be borne in mind that commercial donations became a criminal offence at different times in different countries and that before 2010, the Dutch Healthcare Insurance Act stated that transplants outside the Netherlands must be reimbursed; no exclusion clause existed for commercial donations (BNRM, 2009; *Proceedings II* 2007/08, no. 1741). However, this collided with ethical and legal norms in the Netherlands: an organ should only be donated altruistically (Decree of 31 August 2009, *Bulletin of Acts and Decrees* 2009, 381). The regulations were amended after a paid transplant which took place in Pakistan was reimbursed by a Dutch healthcare insurer (see text box 5).

**Text box 5. Dutch woman undergoes paid kidney transplant in Pakistan**

In June 2007, a Dutch couple travelled to Pakistan where the woman underwent a paid kidney transplant in a hospital. At the time, the buying and selling of organs was not a criminal offence in Pakistan.[46] The woman had been suffering from severe kidney problems for a year and was undergoing dialysis, which is why her husband started searching for a donor on the Internet. The donor, a young Pakistani man, was approached by the hospital that would also arrange his payment. The couple said that they did not know the donor; the husband did see the donor briefly in the hospital, without speaking to him. The woman's treating physician in the Netherlands had ethical objections and did not agree with the woman's decision to go to Pakistan, as a result of which she could not claim support from her healthcare insurer in advance. She therefore paid the transplant to the hospital in Pakistan herself, but once in the Netherlands she declared the costs (EUR 12,000) with her healthcare insurer; who ultimately reimbursed the transplant.[47]

Source: broadcast *Netwerk*, 21 January 2008

Following this case, in the Netherlands the Minister for Public Health, Welfare and Sport informed the House of Representatives that he was planning to 'amend legislation in such a way that the insurer, in cases where serious doubt exists as to the ethical acceptability of a transplant, must refuse to reimburse expenses.' (*House of Representatives* 2008/09, 28 140, no. 62). Subsequently, the Healthcare Insurance Decree was amended on 1 January 2010. This alteration means that the costs of a transplant which has not been carried out within the European Union or in countries that are affiliated to the Agreement on the European Economic Area will only be reimbursed if the donor is a blood relative, spouse or registered partner of the insured. The reasoning is that in these cases there is a larger likelihood for financial compensation (Decree of 31 August 2009, *Bulletin of Acts and Decrees* 2009, 381).

The amendment creates an extra obstacle for transplant tourism – not only because of ethical and legal objections, but also because of the medical risks associated with transplantation abroad. *'In the Netherlands, potential donors and recipients are carefully screened for several months before they become eligible for donation or transplantation. Thanks to the quality of the care provided, the mortality rate [for a patient] following a kidney transplant in the Netherlands has for many years hovered between 1 and 5 per cent. For patients with an illegal kidney, of which the origin is unknown, this percentages is one in five,'* according to a Dutch transplant surgeon (*Metro*, 10 June 2011). Research has shown that patients often return from abroad with a medical complication or infection. The survival rate of the patient and

[45] These statistics derive from the annual reports of the NTS from 2002 to 2012. The annual reports are available from the year 2000, but it was only from 2002 that 'Transplant outside Eurotransplant' is included as a separate outflow category (www.transplantatiestichting.nl).
[46] The selling and buying of organs became a punishable offence in Pakistan in September 2007; see Bile et al., 2010.
[47] The healthcare insurer did have doubts as to the legitimacy of the transplant, as evidenced by the letter to the insured asking for a written statement that the donor had no commercial interest in providing a kidney. Even though the hospital told them that the donor would be paid, the couple stated that it was not a commercial transaction.

transplanted organ is often lower in comparison with transplants carried out in the home country[48] (Evans, 2008; Inston, Gill, Al-Hakim & Ready, 2005). *'Illegal transplants connected with organ trafficking are not subject to proper controls and can endanger the lives, not only of living donors but also of recipients.'* (Council of Europe, 2014, p. 2). The Dutch Transplant Foundation's website highlights the dangers and the possible illegal character of transplant tourism. However, patients from the Netherlands are still travelling to other countries for an organ transplant. For example, in 2011, an African man with the Dutch nationality was arrested in Pakistan because he wanted to undergo a transplant with a kidney from a living donor without obtaining the required permission from the Pakistan authorities (email communication with a Dutch liaison officer in Pakistan, July 2013). From the previously presented HOTT project survey results it appears that almost half of the surveyed medical professionals in the Netherlands treated one to four kidney patients in the past five years who underwent a transplant abroad, mainly in countries outside the European Union (see text box 6). There are often suspicions of sale and one-third of the respondents even stated to be sure that the kidney was bought. Since a patient is treated by several specialists, based upon the survey no statements can be made about the extent of transplant tourism from the Netherlands.

Text box 6. Research into transplant tourism from the Netherlands[49]

An anonymous survey among 241 Dutch transplant surgeons, nephrologists, social workers and nurses, conducted in 2013 in the context of the HOTT project, revealed that 110 respondents (46%) had treated between one and four patients[50] between 2008 and 2013 who underwent a transplant abroad. 100 respondents (42%) had treated patients who were transplanted outside the EU; 65 of them suspected that the kidney had been bought and 31 state they were certain of this. 22 respondents (9%) have treated patients who had had a transplant within the EU, and 2 of those respondents suspected that the kidney had been bought. It concerns patients who had appeared at the hospital with an implanted kidney unannounced, who were unwilling to explain how they had received the kidney, who admitted that they had bought a kidney, who had paid a lot of money for the transplant, or who said that the donor had received payment for the kidney. Finally, there were also patients who returned with a medical record that showed that the kidney was paid for.

As was mentioned, under Dutch law a person with Dutch nationality who buys an organ abroad is only guilty of the trade in human organs if (a) it is also a criminal offence in the country where the transplant is conducted and (b) the payment made exceeds the costs arising directly from the removal of the organ. A factor that further complicates the matter is that transplants conducted abroad are often reported as genetically related donations. It is not uncommon for a patient to return to the Netherlands with an annotation in his or her medical record that the kidney came from a 'cousin'. This is an effective cover for the foreign physicians involved. Given the alteration in the Healthcare Insurance Decree, which makes reimbursement possible only when the organ originates from a blood relative or spouse, patients also have an interest in such annotations in their files (Van Dijk et al., 2011).

This complexity calls for thorough cross-border investigation. Although various organ exporting countries have taken measures to counter transplant tourism, the enforcement continues to be non-existent in many countries or there are signs that the trade is becoming more hidden or is shifting to other countries (Van Dijk et al., 2011; Shimazono, 2007). From a recent documentary of a Dutch public broadcaster (see text box 7) it transpires that organ brokers worldwide are searching for hospitals where paid transplants are conducted without too many questions being asked. When necessary, the broker diverts to another hospital, possibly in a different country.

[48] However, on average 40 per cent of the patients who travel outside the Netherlands for a paid organ transplant have been found unsuitable for transplantation, according to a transplant surgeon of the Erasmus MC in Rotterdam (*Metro*, 10 June 2011).
[49] In a follow-up to the survey, Ambagtsheer, Van Balen and Weimar interviewed a number of patients who had travelled out of the Netherlands for an organ transplant. The overall findings of this research can be found in a report of the HOTT project that is expected to become available for download from www.hottproject.com in December 2014.
[50] One patient is treated by various practitioners, which could lead to double counting.

Text box 7. Intermediary offers paid transplant to Dutch journalist

At the end of 2012, a Dutch journalist posing on the Internet as a patient searching for a kidney donor came into contact with Planet Hospital, a medical tourism company based in the United States. During a meeting with the CEO, Rudy Rupak, in Paris, he offered the journalist a transplant with a living donor from Eastern Europe or Africa and said he had had good experience with a hospital in Mexico. *'In Mexico, we work with a well-reputated surgeon who was the former Undersecretary of Health and was responsible for writing the transplant laws for Mexico.'* The total costs for mediation, donor and transplant would be over US$ 80,000. In February 2013, however, Rudy announced in an email that the hospital *'has had to temporary stop their non-related transplant program.'* He mentioned that they had had the same situation with a hospital in Portugal. The journalist could still go to another hospital in Mexico, but the price would be significantly higher (total costs: US$ 110,000 to 120,000). Rudy brings the journalist into contact with a German man who had recently undergone a kidney transplant in Mexico. This man tells the journalist over the phone that his kidney came from a paid donor from Kenya and that they had to visit a notary on arrival in Mexico. This notary, who Rudy had allegedly bribed, would arrange all the paperwork. The hospital would then not ask any questions. At the request of the journalist, Rudy arranged a meeting with the physician in the Mexican hospital. When asked, the physician denies that any illegal practices takes place, but after the visit the transplant was called off. An email from Planet Hospital explained that *'the hospital was not very cooperative after this happened, because they were frightened.'* Planet Hospital told the journalist that she should not have asked the physician about possibilities with paid donors. They offered the journalist a transplant in the first mentioned hospital in Mexico again, the one that in February 2013 had temporarily stopped its non-related transplant program.

Sources: Investigative journalism program *KRO Brandpunt* broadcast 14 April 2013 and supporting documentation[51]

Illegal transplants for Dutch patients are probably not only facilitated by *foreign* organ brokers. In 2009, the search of the home of a couple living in the Netherlands (the woman originates from the Philippines) revealed a letter from 2007, that was addressed to a physician in the Netherlands. The letter explained that two of the woman's family members live in the Philippines and that they had each received a kidney from a living donor at a disputable clinic in Manila. *'Many patients from abroad, especially from the United Kingdom and Saudi Arabia, are treated here.'* The letter entails an offer to the son of the physician, who is a kidney patient, and other patients from the Netherlands with regard to assistance from the preparation phase, to the transplant with a kidney from a living donor and aftercare in Manila. The woman would *'arrange all necessary medical contacts including those with living donors, visa and accommodation in Manila before and after the operation, and guarantees the correctness of the procedure.'* She owns a hotel in the Philippines that she wishes to extend with a dialysis centre. It is not known whether the letter was actually sent to the physician in the Netherlands (interviews with police and Social Affairs and Employment Inspectorate officers, March 2013).

## 2.4. Transplant tourism from Europe

Research has shown that patients from other European countries travel abroad as well to receive a transplant. In most of these cases it is also unknown how the transplant was facilitated, who the donor was and whether any payment was made.

In a response to the previously mentioned Council of Europe survey (Council of Europe Steering Committee on Bioethics & European Health Committee, 2004), seven Member States indicated to have knowledge of accusations that citizens of their countries had travelled to another country to obtain an organ in an illegal manner: Albania, Belgium, Cyprus, France, Georgia, Croatia and the United Kingdom. Only Georgia acknowledged the accusations. The destination countries were China, India and Turkey.

[51] Prior to the broadcast of the documentary on 14 April 2003, the broadcaster, KRO, had made all the material available to the police. As the Dutch police had no jurisdiction in this case, they passed the information on to the investigative authorities in the United States (Dutch daily newspaper *De Telegraaf*, 14 April 2013).

Cronin et al. (2011) estimated the scale of transplant tourism from the United Kingdom. On the basis of information derived from the national transplant database, they state that between 1 January 2000 and 28 April 2009 at least 245 residents had travelled abroad for a kidney transplant and returned to the United Kingdom for aftercare. It concerns 210 transplants with living donors, 22 with deceased donors and 13 with unspecified donors. Most of the patients (62%) were originally from Southern Asia. Some of the donor organs may have been obtained illegally. Many of the transplants (49%) were carried out in Pakistan, where the sale and purchase of organs has been a criminal offence since 2007, and India (20%), where it became an offence in 1994. Although it is not known whether the organs in Pakistan and India were paid for, 58 per cent of the 210 transplants from living donors did nót involve a blood relative. In many of the other living donor transplants, the donor was said to be a cousin of the recipient.

Since 2000, at least thirty Swedish citizens, many of them with other ethnic backgrounds, travelled from Sweden to another country and returned with an implanted kidney. The countries of destination were the countries of origin of these patients or countries that are known as organ exporting countries. Berglund and Lundin (2012) interviewed three people from the list of thirty transplant tourists, which was compiled by the head of the Swedish registry of people with a kidney disorder and the head of a Stockholm transplant clinic. On the basis of the interviews, there appears to be no question of illegally obtained organs: one respondent had been put on the waiting list in Iran, his country of origin, and had undergone a transplant there with the kidney of deceased donor in 2006, and the other two had had transplants in 2005 in Pakistan, a country where the purchase of organs was not a criminal offence at the time.

Although little is known about the scale of transplant tourism from Europe, a number of recent international criminal investigations have established that patients from Germany, Poland, Ukraine and Greece have undergone transplants outside their home countries that were facilitated by criminal organisations. Given that the donors involved have been identified as victims of human trafficking, the findings of these investigations will be discussed in more detail in paragraph 3.3 concerning human trafficking for the purposes of organ removal in Europe.

# 3. Human trafficking for the purpose of organ removal

The previous chapter outlines situations that might constitute a shift from the commercial trade in organs to the trafficking in human beings for the purpose of organ removal. This shift occurs when any means of trafficking are applied.[52] As medical practitioners in the Netherlands have anonymously reported, they have suspicions that commercial donations are taking place in cases when a donor came from a weak social environment (which could involve the abuse of a vulnerable position) or had a relationship of dependence vis-à-vis a rich patient (which could involve the abuse of power derived from factual circumstances).

In the following two paragraphs incidents are presented and analysed, some not previously identified, which show that law enforcement authorities in the Netherlands dealt with *possible* cases of human trafficking for the purpose of organ removal in and via the Netherlands. The third paragraph summarizes criminal investigations and convictions for human trafficking for the purpose of organ removal in relation to other European countries.

## 3.1. Human trafficking for the purpose of organ removal in the Netherlands

From 2005 to 2013, the Dutch police received at least five reports of human trafficking in which foreign persons state to have been threatened with organ removal in the Netherlands. Although there may be more than five reports, the number is relatively low compared with more familiar forms of human trafficking such as sexual and labour exploitation. The characteristics of these five persons correspond with the donor profile outlined in paragraph 1.5. They are all males of about 20 to 40 years old. Their countries of origin and the countries to which the reports relate have been identified in the literature as organ exporting countries, with the exception of Iran (with a *nationally* regulated market) and Nigeria.

The five reports correspond in the sense that the foreigners declared that they would (have to) sell a kidney in the Netherlands, but that they escaped before the organ donation could take place. Two informants declared that they had been brought to the Netherlands for the purpose of organ removal; either voluntarily (see text box 8) or under coercion (see text box 9). The other three informants stated that they came to the Netherlands either to work or to claim asylum. Once in the Netherlands, they were asked for more money for the trip (see text boxes 10 and 11) or it turned out they could not work (see text box 12) and to pay off their debts they were allegedly threatened with the sale of an organ.[53]

It is possible for a foreign donor to donate an organ in the Netherlands. As discussed in paragraph 2.1, the HOTT project's anonymous survey conducted among medical practitioners has brought a situation to light in which a patient arrived at a Dutch hospital together with a donor from another country, while their alleged relationship could not satisfactorily be verified. Although the respondent classified the situation as a probable case of commercial organ donation, it could just as easily have been a case of human trafficking for the purpose of organ removal.

[52] When the victim is a minor (under the age of 18), there is no need for the use of any means for human trafficking to occur.
[53] Recent media reports from Italy have also mentioned illegal immigrants who allegedly would have had to become organ donors. Five members of a criminal organisation from Libya and Eritrea are said to have been arrested. The criminal organisation is alleged to have offered illegal immigrants to other organisations as labourers or donors if they were unable to pay for their transport to Europe – for which amounts of up to EUR 1500 per person were charged. The suspects are said to have been charged with organising illegal immigration (*NOS* [Netherlands Broadcasting Corporation], 18 September 2014).

Text box 8. Nigerian man declared to have been brought to the Netherlands for voluntary donation

In 2012, a Nigerian man (NN1) with a high blood-sugar level was found in a hospital car park in the Netherlands. He did not know how he got there; because of his diabetes, he might have been in a comatose state. He was hospitalized on the Intensive Care ward. Once he woke up, NN1 said that he had been brought to the Netherlands to sell his kidney for 7,000 to 8,000 (currency unknown). He declared that he has a job in Nigeria. His employer had accompanied him (and others) to Togo to put him in touch with an Arabic-speaking man. NN1 would have had to put his hand on the Koran to promise that he would sell his kidney. The man would have arranged and paid for a passport, visa and ticket for him to fly from Togo to Paris. NN1 declared about the trip that he had to follow the man and speak to no one on the way. He would have been in good health when he left Togo. In Paris the man would have taken NN1's passport to buy train tickets to the Netherlands. In the Netherlands, they were allegedly taken by two men to a house, where NN1 said to have been held for three days, guarded by two Arabic-speaking men. NN1 declared to have been visited by two physicians. He was able to give a description of the second physician, the one who told him that he had diabetes and was not suitable for donation. The Arabic-speaking man became very angry. He allegedly reminded NN1 of his promise and threatened that he would not live to return home. NN1 declared that he had been afraid, had escaped, and could not remember anything from that moment on. He was willing to tell his story to the police, as long as that would not prevent him returning to his home country. The report he made to the police, however, provided insufficient basis for a criminal investigation. As soon as NN1 had recovered, he was put on a flight back to Nigeria at his own request.

Sources: hospital; police

Text box 9. Armenian man declared to have been brought to the Netherlands for forced donation

In 2006, an Armenian man (NN2) reported to the Dutch police that he had been carrying out forced labour as a prisoner of war in Russia for many years. When he became too weak to work, he claimed that he was examined by a physician who said that NN2 could be sold as an organ donor provided that he regained his strength. NN2 was taken to a different location where he no longer needed to work and received good food. He said to have been examined there by a physician every two days. NN2 declared that young men were regularly sold as organ donors from this location. After a few months of recuperation, NN2 alleged that he had been brought to the Netherlands in a minibus with tinted windows. During the trip, it became clear to him that he would be sold to Arabs as an organ donor. NN2 declared that once in the Netherlands he had been taken to a house, but he escaped from the house the next day. In the Netherlands, he had been granted a temporary residence permit under the Residence Regulation Human Trafficking [*Verblijfsregeling Mensenhandel*].[54] His report, however, contained insufficient basis for a criminal investigation and the case was dismissed. NN2 requested a residence permit for continued stay in the Netherlands. This application was granted.

Sources: police; IND

[54] The Residence Regulation Human Trafficking [*Verblijfsregeling Mensenhandel*] is set out in paragraph 3 of chapter B8 of the Aliens Act Implementation Guidelines [*Vreemdelingencirculaire*]. This regulation means that a possible victim or witness of human trafficking is granted a temporary residence permit (for the duration of the criminal investigation or the prosecution), on the condition that he or she lays charges of human trafficking or as victim cooperates in some other way in the investigation.

Text box 10. Iranian man declared to have been threatened with organ removal in the Netherlands

In 2010, an Iranian man (NN3) declared that he had paid 15 to 16 million Iranian Toman (EUR 4,350 to 4,650) [55] to be smuggled into the Netherlands where he wanted to apply for political asylum. In Iran he was facing arrest for his involvement in a particular political party. He declared that he travelled by foot over the mountains to Turkey and took a bus to Istanbul together with a travel agent, from where he flew to Schiphol two weeks later using a passport that he had received from the agent. Once in the Netherlands, NN3 said to have been taken to a house by two men in a car, where it transpired that he had to pay more money. He declared that he had been locked up in a room where he said he was assaulted and was threatened that he would be killed, after which his kidneys would be sold. He declared to have escaped. NN3 was granted a temporary residence permit under the Residence Regulation Human Trafficking, but the case was dismissed due to lack of evidence of human trafficking. NN3 applied for an asylum short-term residence permit. This application was granted.

Sources: CoMensha; BNRM, 2012; police; IND

Text box 11. Indian man declared to have been threatened with organ removal in the Netherlands

In 2007, an Indian man (NN4) reported to be a victim of human trafficking. He declared to the Dutch police that he had travelled from India to the Netherlands two to three years ago by plane (possibly as a minor) to work here, accompanied by his uncle who lives in the Netherlands. NN4's parents were said to have paid the travel expenses, but once in the Netherlands his uncle allegedly asked them for more money, without success. After a couple of months, his uncle allegedly took NN4 to a warehouse, where there were four other children as well. NN4 declared that he was handcuffed and examined by a physician with a stethoscope, who made a phone call from which NN4 inferred that a kidney was to be removed. NN4 and the other children were alleged to have been given an injection in the upper arm and NN4 became unconscious. When he woke up, his kidney had not been removed. NN4 declared that after about a week he escaped from the warehouse. When he was arrested by the police in 2006, he gave false personal details and applied for asylum. This application was denied and NN4 returned to his life as an illegal immigrant, until he was once again threatened by his uncle in 2007 and decided to lay charges. NN4 was given a temporary residence permit under the Residence Regulation Human Trafficking, but quite soon afterwards it transpired that he had left for an unknown destination.

Sources: CoMensha; BNRM, 2009; police; IND

Text box 12. Armenian man declares to have been threatened with organ removal in the Netherlands

In 2013, an Armenian man (NN5) reported to be a victim of human trafficking. He declared that he was indebted to a high-ranking person in Armenia en therefore agreed to a proposal to work in Europe to pay off the debt. NN5 declared that he did not pay anything for his visa and airline ticket. A Russian-speaking man was alleged to have travelled with him to France, where he was passed on to two other men (one of whom spoke Russian), who brought him to the Netherlands in a car. In the Netherlands he claimed that he had been taken to a house where he was told to stay until his working documents had been arranged. After a few weeks, when this turned out to be impossible, he alleged that he was told he had to offer an organ for sale to pay off his debts – an organ that he could live without, such as a kidney. He refused and they allegedly told him he would be forced to do so, but NN5 would have been able to escape. NN5 was granted a temporary residence permit under the Residence Regulation Human Trafficking, but his report to the police provided insufficient evidential basis for a criminal investigation and the case was dismissed.

Sources: CoMensha; police; IND

[55] Exchange rate on 14 September 2014.

None of the five reports led to a criminal investigation; one person left to an unknown destination, one report lacked evidence of human trafficking and the other three reports provided insufficient basis for a criminal investigation. It is very common for reports to the police about human trafficking to contain insufficient evidential basis for an investigation.[56] From the informant's point of view there could be various reasons for this, such as fear of the risks associated with providing information, the cultural background, limited memory as a result of trauma, lack of faith in the authorities and a language barrier. An unverifiable report does not necessarily mean that there is no victimization (BNRM, 2014; Klaver, Van der Leun & Schreijenberg, 2014), but it does make it difficult to assess the accuracy of the report.

In determining the truthfulness of the reports, it is important to keep in mind that human trafficking for the purpose of organ removal is a concealed form of criminality about which the responsible investigative authorities have little or no knowledge and experience. In addition, it is easy for the person taking the statement to miss subtle indications, for example as a result of a language barrier or time pressure. Furthermore, many of the persons filing such a report are or want to be eligible for a temporary residence permit, which makes it difficult to establish the truthfulness of the report as well. In recent years, confronted with statements which contained insufficient evidential basis for a criminal investigation, the police, the Public Prosecution Service and the Immigration and Naturalisation Service suspect that the Residence Regulation Human Trafficking is being misused. With respect to the five reports described above, two persons (NN4 and NN5) – one of them with a rejected asylum request – specifically laid *human trafficking* charges. Apparently, they knew that the crime they reported about was covered by the human trafficking article in the Dutch Penal Code and may also have known that by laying charges they would be eligible for a permit under the Residence Regulation Human Trafficking. However, the person with a rejected asylum request (NN4) did leave for an unknown destination after his report had been filed and the other one (NN5) did not apply for a residence permit after his case was dismissed. The other three had reported a crime that had been classified as human trafficking by the authorities themselves.

It is striking that three out of five persons (NN1, NN2 and NN4) declared that they had been examined by one or more physicians in connection with the donation. According to a Dutch public prosecutor, this part of the reports is an important precondition for gathering proof that the crime was actually going to be attempted. *'There needs to be, at least, a degree of serious belief that the non-voluntary organ donation is going to be conducted, such as a visit by a physician, a medical examination or contact with a clinic. After all, people don't remove organs for donation on a kitchen table.'* (email communication, July 2014).

The Dutch authorities have also dealt with persons who stated that they had been visited by a physician and threatened with forced organ donation *in another country*. Given that the alleged criminal offences did not take place in the Netherlands, and none of the persons involved were Dutch nationals, the Netherlands had no jurisdiction in these cases. For example, two Somali brothers declared to the Immigration and Naturalisation Service (IND) in 2006 that they had been smuggled by a travel agent from Somalia to Belgium. In Belgium, there were locked up in a house, where blood was taken from them and they were threatened with organ donation. The agent allegedly had said that he wanted to sell a kidney from each of them – one of the kidneys was intended for a sick friend. The brothers stated to have escaped and applied for asylum in the Netherlands, which was granted (IND-information).

Among medical professionals in the Netherlands there are suspicions of human trafficking for the purpose of organ removal as well. In the anonymous survey conducted in the context of the HOTT project, nine respondents said that they have suspicions of human trafficking in the Netherlands for the purpose of organ removal[57] (see text box 13). The reason behind these suspicions is either the donor's behaviour or the fact that the donor indicated to have been coerced. Due to doctor-patient confidentiality, these suspicions were not reported to – and therefore not investigated by – the Dutch authorities responsible.

[56] Neither the Public Prosecutions Service nor the police keeps full or uniform records of such reports. As a result, no conclusion can be drawn about the number of reports that lacked sufficient evidential basis (BNRM, 2014).
[57] The survey gave a clear definition of the crime of human trafficking for the purpose of organ removal.

Text box 13. Medical professionals' experiences with human trafficking in the Netherlands
An anonymous survey, in 2013 conducted in the context of the HOTT project, among 241 transplant surgeons, nephrologists, social workers and nurses in the Netherlands, revealed that between 2008 and 2013 9 of those 241 professionals (4%) had had suspicions of human trafficking for organ removal. Three respondents indicated that the donor had said that he or she had been coerced into donating a kidney. Six respondents said that their suspicions were prompted by the behaviour of the donor.

*Not in all of the above cases it is clear when exactly the suspicions of the respondent arose, nor is it clear whether the transplant was actually conducted if the suspicions aroused before the donation.*

## 3.2. Human trafficking for the purpose of organ removal via the Netherlands

The Netherlands seems also to be involved in human trafficking for the purpose of organ removal as a *transit country.* Around 2006, a woman was found in a public restroom at Schiphol airport, where she had been hiding with her son for several hours. Her case file is no longer accessible, but a former employee of the Royal Netherlands Marechaussee remembers that the woman declared that she and her son had been abducted from their country of origin, possibly Armenia. She alleged she had been sexually abused and said that her son was destined for the human organ trade. The woman declared that they had been brought to Schiphol airport by car, possibly with a stopover. Once at Schiphol airport, the woman had locked herself and her son in the public restroom. Her story provided insufficient evidential basis for a criminal investigation (personal communication with a former employee of the KMar, January 2014).[58]
One year earlier, in 2005, a Pakistani man arrived at Schiphol airport and requested entry into the Schengen area. He was travelling with three boys, all minors, and was in possession of their Pakistani passports that during inspection proved to be good quality forgeries. The man was arrested for human smuggling (a criminal offence under article 197a of the Dutch Penal Code) and the possession of false travel documents (article 231 of the Dutch Penal Code), but the criminal investigation revealed that the smuggling might have been carried out for the purpose of forced organ donation (see text box 14).

[58] A similar story can be found on the website of CoMensha, the Dutch Coordination Centre for Human Trafficking. This story has been accepted as being true by several authors with a wide audience range and has been included in their publications. However, on enquiry CoMensha indicated that it is nót an actual true story, but is meant to draw attention to this form of human trafficking (email communication, April 2013). The fact that the story concerns an example is, however, not mentioned on the website and the story has been described in the book *Vrouwen te koop* [Women for sale] by Maria Genova (2011) and *Slaven in the polder* [Slaves in the polder] by the *Trouw*-journalists Roessingh and Ramesar (2011). In December 2014, the story can still be found on the CoMensha website in short version*: 'My son and myself were drugged and transported from Bulgaria to the Netherlands. From the Netherlands we had to travel to the United Emirates for the trade in human organs. At the airport, I approached a woman. She alerted the police.'* - Roxana, Bulgaria.
In 2011, the *Trouw*-journalists Roessingh and Ramesar published a second story about a victim of human trafficking for the purpose of organ removal (Ramesar, 6 August 2011; Roessingh & Ramesar, 2011), to which the National Rapporteur referred in 2012 as well (BNRM, 2012). Following this story, the police launched a criminal investigation, but that did not yield any results. In November 2014, one of the two journalists is dismissed by *Trouw*. The newspaper has set up an external commission to verify the reliability of his sources (communication via email with the deputy editor of *Trouw*, November 2014). The story is about a Chinese woman who is said to have been smuggled to the Netherlands by a Chinese criminal organisation. She was said to have been put to work, illegally, in a massage salon where she had to perform sexual acts. She allegedly had no access to her own passport. When she wanted her young daughter to come to the Netherlands, her bosses had suggested that – in exchange for her daughter's travel and accommodation – she could travel to China to donate a kidney. It was alleged that she agreed and that she had undergone an operation near Shanghai in 2010. After the operation, the woman and her daughter allegedly flew to the Netherlands (BNRM, 2012; Ramesar, 6 August 2011; Roessingh & Ramesar, 2011). During an interview with one of the journalists, the woman was said to have shown him her scar. The journalists included her story in their book, entitled *Slaven in de polder* [Slaves in the polder]. During the presentation of the book, in October 2011, the journalists stated that they had heard from two different sources that the woman was currently fighting for her life at the Intensive Care ward of a Dutch hospital as a result of the kidney operation. The police urged the journalists to share their information, so that they could start a criminal investigation, but a few days later the journalists informed them that the woman had died. They did provide the police with the woman's name and description, and the names of two hospitals, but that information did not yield any results. When the police informed the journalists about it, they indicated that one of their two sources claimed to have been provided incorrect information. According to her friends in the massage salon, the woman had moved to a different country. The case was closed (police-information).

Text box 14. Doctor found guilty of human smuggling, possibly for the purpose of organ removal

The Pakistani man is a surgeon, specialised in kidney transplants. Together with his wife, who is also a physician, he owned a private clinic in Pakistan where he said to often operate on Afghan refugees. He had the equivalent of over US$ 100,000 on his bank account and carried a declaration with him which showed that he had permission to operate in countries outside Pakistan. The boys proved not to have the Pakistani but Afghan nationality and they came from a refugee camp in Pakistan. Their family had paid their travel expenses and the boys had undergone medical tests before the journey. Their ultimate destination would not have been the Netherlands. The Pakistani man was carrying a confirmation of a rental car reservation, the vehicle was to be collected at Schiphol and to be returned in Brussels. Although they were travelling from Pakistan to Rome on a return ticket that was valid for about three weeks, the boys declared that they would be travelling from the Netherlands via Belgium to the United Kingdom, where they were to work and/or study. A year earlier, in 2004, the Pakistani man had tried to enter the United Kingdom with three other minor boys and no documentation at all.

Sources: Public Prosecution Service; police; IND; interview chief public prosecutor/coordinator criminal investigation

Despite these indications, during the criminal investigation it could not be established with any certainty that the purpose of the smuggle would have been forced organ donation or organ removal. For example, there were no medical test results found and it was unclear where and how the operations would take place. On appeal, the doctor was found guilty of human smuggling and the possession of false travel documents and sentenced to 16 months imprisonment, 4 months of which were suspended. The three Afghan boys applied for asylum in the Netherlands but subsequently left for an unknown destination.

Besides the Royal Netherlands Marechaussee, the Social Affairs and Employment Inspectorate (ISZW) also received indications of human trafficking for the purpose of organ removal, in which the Netherlands possibly served as a transit country. In 2009, the ISZW received information about a criminal organisation that was on a large scale involved in the transportation of persons from Ukraine to the Netherlands. Once in the Netherlands, they were provided with false Polish identity documents and subsequently exploited in the labour market. A key witness for the prosecution in the Netherlands made an incriminating statement, which among other things showed that he/she had been asked if he/she would be willing to donate a kidney in exchange for a lot of money. The witness refused, after which he/she was asked if there were family members in the country of origin who would be willing to provide a kidney. The leader of the criminal organisation had a family member in Ukraine who was of Israeli origins and frequently travelled to and from Israel. Given that the Ukrainian police had previously conducted criminal investigations into human trafficking for the purpose of organ removal with links to Israel (see paragraph 3.3), the witness' statement was investigated jointly by the Dutch and Ukrainian police. This investigation did not provide them with evidence that the criminal organisation was involved in human trafficking for the purpose of organ removal (interviews with ISZW and police officers, May 2013).[59]

## 3.3. Human trafficking for the purpose of organ removal in Europe

Criminal investigations into human trafficking for the purpose of organ removal have taken place in at least six European countries: Bulgaria (2), Moldova (1), Ukraine (2), Greece (1), Spain (1) and the United Kingdom (2). In addition, four non-European countries have carried out investigations which involved *a link to Europe*, namely Costa Rica (1), Israel (1), Kosovo (1) and South Africa (1). These investigations have shown that patients and donors from European countries have undergone transplantations which were facilitated by criminal organizations and that illegal transplantations have taken place in clinics in European countries, of which the donors have been identified as victims of human trafficking. The detection and prosecution of this form of human trafficking appears to be very complex; if the authorities succesfully collected sufficient evidence and prosecuted the suspects, it took several years. A part of the

[59] At the time of writing, August 2014, the criminal case is still pending.

investigations did lead to convictions, for human trafficking or related offences. Some of the investigations or the subsequent prosecutions have not yet been finalized, according to the latest available information.

Bulgaria – In Bulgaria, two relevant criminal investigations have been conducted. In 2006, three local organ brokers recruited at least nine Bulgarian nationals to sell a kidney in a private clinic in Turkey for between US$ 3,000 and 5,000 (OSCE, 2013; *Sofia News Agency*, 9 March 2005; *Associated Press*, 9 March 2005). The brokers were convicted and sentenced to fines and imprisonment for between 2.5 and 4 years (OSCE, 2013). In another investigation, which also took place in 2006, managers of a hospital in Bulgaria confirmed that at least 20 illegal organ transplants had been carried out in the hospital in a period of two years. Most patients came from Israel and the donors from Russia and Georgia. Two initial investigations were stopped prematurely because of a lack of evidence. As the persons involved were of foreign origin and the transplants were only carried out in Bulgaria, it was difficult for the Bulgarian authorities to prove that the transplants were illegal. A request for legal assistance was sent to Israel. The hospital manager and the head of the national transplant organisation were dismissed (OSCE, 2013; Pancevski, 2006).

Moldova – In Moldova various local organ brokers have been convicted for recruiting donors, who were sent to Turkey for the removal of their kidney from 2001 to 2004 (OSCE, 2013; Vermot-Mangold, 2003). It is unknown how many donors are involved, but *'according to Moldovan police and local human rights activists, more than 300 Moldovans have sold their kidney abroad since 1998.'* (Scheper-Hughes, 2004, p. 49). The Council of Europe rapporteur interviewed a number of these donors during a visit to Moldova in October 2002.[60] The authorities in Moldova have prosecuted ten persons for human trafficking and serious physical injury. This has led to five convictions and one acquittal. The sentences varied from a fine to ten years imprisonment. In August 2012, the case against four others was still on-going, the outcome is unknown. The alleged leader of the network was arrested in Ukraine on the basis of an international arrest warrant and was extradited to Israel (OSCE, 2013).

Ukraine – In Ukraine, two relevant investigations have been carried out. Early in 2008, an Ukrainian national and an Israeli physician were arrested in connection with illegal transplants conducted in a clinic in Ukraine with mainly Israeli patients and donors. The two suspects were initially accused of human trafficking, but later on the charges were changed to illegal organ transplants. The Ukrainian suspect was sentenced to a fine and the Israeli physician was extradited to Israel on related charges (OSCE, 2013; Gouresky, 31 August 2009). In a second case, physicians from Ukraine were alleged to have conducted illegal transplantations in Ukraine, Azerbaijan, Ecuador and Kosovo from 2009 to 2010. The donors, estimated at possibly a hundred, came from Ukraine, Moldova, Uzbekistan, Russia and Belarus. One organiser, three physicians and two organ brokers were charged with human trafficking, illegal organ transplants and the establishment of a criminal organisation. As of March 2013, the Ukrainian case has not been finalized and the outcome is unknown. The university medical centre in Azerbaijan, where some of the transplants were conducted, did not have the proper licence to carry out organ transplants. The authorities in Azerbaijan accused employees of the medical centre from Israel, Ukraine and Azerbaijan of human trafficking, trading in organs or removing organs for transplantation under coercion, establishing a criminal organisation and causing grievous consequences through the abuse of power. This investigation had not been completed in September 2012; the outcome is unknown. It is, however, known that the medical centre's licence has been revoked (OSCE, 2013).

Greece - From 1998 to 2008, at least 46 Greek patients travelled to India for a paid organ transplant. They were approached in dialysis clinics by two Greek organ brokers, who told them that they could have a safe and 'legal' transplant in India for EUR 40,000. The brokers charged EUR 5,000 to 10,000 for their

[60] *"During her visit to Moldova, the Rapporteur interviewed a number of kidney "donors", all young men between 18 and 28 years of age living in poor conditions in rural parts of the country. Poverty had driven them to sell their kidney for a sum of 2 500 to 3 000 USD, while recipients are said to pay between 100 000 and 200 000 USD per transplant. [..] The transplants were conducted in Turkey in rented hospital facilities. "Donors" were asked to sign papers of consent without any prior information. [..] Medical check-ups took place at night. The post-operational phase and medical follow-up usually lasted no more than 5 days before the "donors" were sent back by bus to their country of origin. Following the operation, the "donors'" state of health generally deteriorated in the medium term due to the absence of any kind of medical follow-up, hard physical work and an unhealthy life style with inadequate nutrition and high consumption of alcohol."* (Vermot-Mangold, 2003, no 11).

services. Once in India they often demanded extra money from the patients or their families in Greece. The patients declared that they had been told by the treating physician in India that the young Indian donors (25 to 35 years of age) had received between EUR 500 and 1,000 (interview with police officers, Athens, May 2013). In the media it was said that the victims were deceived and coerced: *"The victims were lured to the private clinic with job offers, but told that instead they were wanted for their kidneys, for which they would be paid a fee. Those that refused apparently were held against their will before being drugged and operated upon."* (Ramesh, 25 January 2008). After the transplant, the Greek patients were released from the hospital in a poor condition and had to be hospitalised in Greece with symptoms of rejection and infections. At least 10 patients soon died after the transplant; two of them were still in India at that time (interview with police officers, Athens, May 2013). In 2008, the Indian doctor involved was arrested for his involvement in 500 to 600 illegal transplantations since 1999. He was found guilty of the commercial trade in organs, the removal of organs without authority, forgery, criminal conspiracy and criminal intimidation, and sentenced to seven years imprisonment and a fine of INR 60 (over EUR 730,000).[61] Four others involved were also convicted in India. Three donors received compensation (Thakur, 23 March 2013). The Greek police arrested the two organ brokers on charges of organised crime, human trafficking for the purpose of organ removal, money laundering and extortion. One of them was sentenced to a fine of EUR 5,000, the other was taken into custody. The police have no further information about the outcome of the case (interview with police officers, Athens, May 2013).

Spain - According to media reports, in March 2014 five people were arrested in Spain for offering US$ 40,000 to 55,000 to each of nine potential donors for the donation of a part of their liver to a highly placed person from Lebanon (who was one of the arrested persons). The nine potential donors, mainly illegal immigrants, were said to have undergone compatibility tests in a private clinic in Spain, for which some of them had allegedly been paid. At least one of them, a Romanian man, proved to be a suitable donor. The donation did not actually take place, because the hospital discovered that the legally required kinship and/or emotional relationship did not exist between the donor and the recipient. Ultimately, the Lebanese man allegedly underwent a legal transplant in Spain. The donor was one of his children, who had previously been rejected as a donor in Lebanon. In March 2014, no charges were yet brought against the suspects (Goodman, 12 March 2014; Sahuquillo & Duva, 12 March 2014).

United Kingdom - In the United Kingdom, two victims of human trafficking for the purpose of organ removal have been identified. The first victim was taken from West Africa to the United Kingdom in 2011 to donate a kidney to a family member, without knowledge or consent. Prior to the journey the compatibility of the match had been established by hospital tests. The victim declared to have assumed that these tests were necessary in order to obtain a visa. The transplantation did not take place in the United Kingdom. The second victim, a minor, was smuggled from East Africa to the United Kingdom in 2012. The goal was to travel together with a British patient to another country where the transplantation would take place, but upon arrival in the United Kingdom the victim was stopped. None of the criminal investigations led to convictions (interview with police officer, Birmingham, February 2013 and communication via email in October 2013 and September 2014).

Costa Rica - According to media reports, since 2009 an investigation into a criminal organisation which includes persons from various Eastern European countries has been on-going in Costa Rica. Four physicians, a police officer and a businessman have allegedly been arrested in Costa Rica in 2013 and have been charged with being part of an international conspiracy. One of the physicians was said to be the leader of the network, and the police officer and businessman are alleged to have recruited donors. The patients and a number of the criminals involved were said to come from Israel. Meanwhile, various suspects have been released on bail. In March 2014, the investigation was not yet finalized (Meléndez, 17 March 2014).

Israel - In 2006 and 2007, patients and donors from Israel underwent transplantations in Ukraine. The donors, who were approached by two brokers, were poor and physically or mentally handicapped. In

[61] Exchange rate on 20 June 2014.

some cases, they were also asked for a contribution towards the travel costs and were put under psychological pressure. The brokers were collaborating with a physician. This physician is alleged to have identified the patients, each of whom paid between US$ 125,000 and 135,000 for a kidney. The physician is also alleged to have accompanied at least four donors to a clinic in Ukraine. The donors are said to have been promised payment of US$ 7,000. Some of them, however, received nothing; others received a payment of between US$ 500 and 3,500. The Israeli authorities charged the brokers with human trafficking for the purpose of organ removal, committing crimes that led to serious injuries, exploitation of a vulnerable population, and acquiring an object under aggravating circumstances by means of deceit. One of them was also accused of assault and the other for impersonating a physician and using a false medical title. Both brokers were convicted: one of them received a four-year prison sentence (OSCE, 2013; State of Israel Ministry of Justice, 2011). As far as is known, the physician was not prosecuted.

Kosovo[62] - In 2008, at least 24 illegal transplantations were conducted in Kosovo. The patients involved came from countries such as Israel, Germany, Poland, Turkey and Ukraine, and paid up to US$ 108,000. The donors were mainly between 20 and 30 years old and came from countries such as Turkey, Ukraine, Kazakhstan and Moldova. The donors were insufficiently informed about the risks of the operation and needed to sign a statement before the donation that said, unjustifiably, that the organ was being donated for altruistic motives or to a family member. The donors were promised amounts of up to US$ 30,000. Some of them received a portion of this amount, or none at all. After returning to their home countries many of them were asked by the brokers to find other donors, after which they would receive the remaining amount of money or more. The clinic in Kosovo where the transplants were conducted had an improperly obtained licence, because transplants are prohibited by law in Kosovo because of the lack of medical expertise and supervision in the country. The Kosovar owner of the clinic and his son were found guilty of involvement in organised crime and human trafficking. The owner was sentenced to eight years imprisonment and a EUR 10,000 fine and his son to seven years and three months imprisonment and a EUR 2,500 fine. Seven donors received compensation of EUR 15,000. Two others involved were sentenced to imprisonment for three years and one year respectively, and two involved were acquitted. International arrest warrants were issued against a Turkish physician and an Israeli broker (OSCE, 2013). In 2011 Turkish prosecutors demanded for them to be sentenced to 171 years imprisonment (B92.net, 29 September 2011). In August 2014, the Turkish physician was convicted in absentia to 11 years and 8 months imprisonment (communication via email with authorities in Kosovo, September 2014).

South Africa[63] - In 2010, a private hospital group in South Africa admitted to have conducted 102 illegal transplants from 2001 to 2003, including five transplants involving minors. The patients came from Israel and had paid amounts between US$ 100,000 and 120,000. Initially, Israeli donors (who were paid amounts up to US$ 20,000) were used, but quickly, it was discovered that Brazilian and Romanian donors were prepared to accept less than US$ 3,000. The patients and the donors were asked to sign a document saying, unjustifiably, that the donation concerned a family member. The criminal investigation started in 2003 and took seven years. The hospital admitted to three charges - contravening the Human Tissue Act, being in the possession of illegally acquired proceeds and participating in unlawful activities under the Prevention of Organised Crime Act - and paid a fine of approximately eight million Rand (over EUR 560,000).[64] Two local brokers, an interpreter and a patient pleaded guilty. In 2013, the court withdrew the charges against four physicians and two hospital employees because of the excessive delay of the trial. These charges ranged from fraud, forgery, unlawful acquisition, use or delivery of human tissues (minors), use or possession of proceeds from illegal activities and the illegal receipt of payments (minors). Human trafficking could not be charged, because of the lack of legislation. A related criminal investigation in Brazil resulted in two brokers being sentenced to eight years imprisonment (Allain, 2011; Cornins, 23 February 2013; Nair, 15 September 2010; *The Telegraph*, 10 November 2010).

---

[62] This case is discussed extensively in a report from the HOTT project that is expected to be available for download from www.hottproject.com in December 2014.
[63] Idem
[64] Exchange rate on 14 September 2014.

# 4. Conclusions and recommendations

The Central Unit of the National Police of the Netherlands conducted a study into the trade in organs and human trafficking for the purpose of organ removal in relation to the Netherlands and Europe to gain better insight into and knowledge of this phenomenon. The trade in organs refers to the commercial trade in human organs. Irrespective of the voluntariness of the buyer and the seller, this is a worldwide criminal offence - except in Iran. In the Netherlands, The Healthcare Inspectorate (IGZ) is responsible for monitoring abidance with the ban. According to the Dutch legislator, the voluntariness of the donor cannot be guaranteed if there is a profit motive; this may even lead to exploitation. If any means of trafficking are applied, it is no longer a matter of the trade in organs, but of a situation that can be classified under the offence of human trafficking for the purpose of organ removal, with a heavier threat of punishment.

The findings of this study show that commercial organ transplants take place in the Netherlands. Moreover, patients are known to travel from the Netherlands for paid transplants abroad, and it is often unclear from whom the organ originates. Medical professionals in the Netherlands often suspect or know that the kidney was bought. Up to now, potential cases of the trade in organs have not been reported or investigated. An important reason lies in the fact that medical professionals are exempted from the duty to report possible offences committed by their patients. In addition, the responsible authorities do not give enforcement of the prohibition of the commercial organ trade much priority – probably in view of the assumption that these transactions are entered into voluntarily – and have little knowledge on this issue. In practice, however, the possibility that a paid donor is subjected to coercive means cannot be ruled out.

This study also shows that since 2005, the year in which the offence of human trafficking was extended to include organ removal, the authorities in the Netherlands have been confronted with *possible* cases of human trafficking for organ removal. The number of reported cases is low when compared with more familiar forms of human trafficking such as sexual and labour exploitation. The veracity of the signals that (threats of) forced organ donations occurred in or via the Netherlands has not been determined for various reasons. Reports made to be police about human trafficking often lack sufficient indications for a criminal investigation. In addition, because of their unfamiliarity with this phenomenon, the authorities might be missing important indicators. Moreover, the international character of human trafficking further complicates the investigation of alleged criminal activities. So far, an important source of information, the medical profession, has not been used by the authorities, although suspicions of human trafficking in the Netherlands also occur in medical circles. Taken into account that European patients, donors and clinics have been involved in illegal transplants in which the donors are identified as victims of human trafficking, it is highly probable that the Netherlands is no exception and that the Netherlands and Dutch nationals are directly or indirectly involved in this form of human trafficking.

Even when suspicions arise, it is difficult to establish whether a financial transaction has taken place between the donor and the recipient, and if any means of trafficking have been applied (by a third party). Buying an organ is difficult to prove, especially when the organ was obtained abroad. If a patient returns to the Netherlands with any information at all about a transplant abroad, there is often no information about the donor. Consequently, it is difficult to check whether a commercial donation or exploitation took place. The patient will not always know, or want to know, who the donor was and under which circumstances the donation occurred. In addition, a financial transaction does not necessarily mean that anything illegal has taken place: the patient may only have paid the costs of the transplantation.

The complexity of the detection and investigation of alleged commercial and non-voluntary organ donations requires the cooperation of judicial, administrative and fiscal partners at a national level: the Ministry of Public Health, Welfare and Sport, the National Police, the National Healthcare Inspectorate (IGZ), the Immigration and Naturalisation Service (IND), Dutch hospitals, the Dutch Transplant Foundation (NTS), and so forth. From a legal perspective, a clear distinction must be made between the trade in human organs and human trafficking for the purpose of organ removal. But the authorities need to bear in mind that any contravention of the ban on the trade in organs (Organ Donation Act) might entail some

form of exploitation, and that in the absence of elements of the article on human trafficking (Dutch Penal Code) it might be possible to prove a violation of the ban on trade in human organs.

Human trafficking for the purpose of organ removal differs in many respects from other forms of human trafficking. For example, the medical profession plays an essential role. The clients (patients) are vulnerable, and therefore, despite the fact that they have often broken the law, they are seldom charged with an offence. However, they are a source of information when it comes to the detection of criminal facilitators. The victims (donors) could have been taken to a different country for a relatively short period, but could have been trafficked in their home countries as well. Increased knowledge and awareness among the relevant authorities makes it easier to implement directed interventions and to recognize indications.

The prevention and combat of human trafficking for the purpose of organ removal may, for example, include the creation of barriers against the posting of online advertisements in which people offer themselves for a commercial fee as donor or broker. In addition, a public awareness campaign could be created, which provides information about the risks and possible consequences of buying and selling organs. A similar campaign could be set up for medical professionals. Given the principle of confidentiality that is embedded in the medical profession, prior to this campaign it is important to establish guidelines for situations in which medical practitioners are confronted with possible cases of commercial or non-voluntary organ donation (OSCE, 2013). Although cases of commercial and forced donations are difficult to establish, medical professionals can be alerted to certain indications and signals: inconsistent stories or an unclear or unverifiable relationship between a donor and recipient, or a situation in which the donor comes from a weak social environment, or is in a relationship of dependence vis-à-vis the recipient. Law enforcement authorities should be suspicious of trafficking in human beings for the purpose of organ removal when a person has undergone a medical examination and his travel story (working in another country) does not correspond with the travel documents in his or her possession (which show that the return journey is planned shortly after the outward journey). These and more indicators will be published in October 2015 under the HOTT project, an international scientific research project with the objective of increasing knowledge and awareness of this phenomenon and improving the non-legislative response.

It is of great importance that the efforts are not limited to national borders (BNRM, 2012). This is underlined by the fact that (some of) the persons involved are present only for a relatively short time in the country where the illegal activities are carried out. After a transplant has been carried out, without the presence of the donor and/or the recipient it is difficult to determine whether there was a commercial or exploitative element. The absence of international collaboration could mean that national authorities pursue fragmented strategies against a criminal network, because of missing links. It could also lead to a situation in which countries that are only marginally involved in the illegal activities (such as the country of origin of the donor or recipient – persons who are not generally prosecuted) are not willing to conduct a criminal investigation. The focus of an investigation is often on the countries where the illegal transplantations take place, whereas those countries often have insufficient resources for effective prohibition, investigation and prosecution of the trade. If the facilitating networks are to be combated effectively, the responsibilities need to be shared: the countries from which the patients and donors originate must contribute to the prevention and combating of this form of exploitation (OSCE, 2013). International collaboration can take place within existing structures, in which Interpol, Europol, Eurojust and liaison officers play key roles in coordinating international and complex criminal investigations.

# References

Allain, J. (2011). Trafficking of Persons for the Removal of Organs and the Admission of Guilt of a South African Hospital. *Medical Law Review*, 19(1).

Ambagtsheer, F. (2007). *The battle for human organs. Kidney markets and transplant tourism from the Netherlands in the global economy* (MA thesis). Available on www.elpat.org

Ambagtsheer, F., & Weimar, W. (2013). Organ Recipients. In: A. Pascalev et al., *Trafficking in human beings for the purpose of organ removal: A comprehensive literature review,* p. 29-33. Available on www.hottproject.com

Anker, A. E., & Feeley, T. H. (2012). Estimating the risks of acquiring a kidney abroad: A meta-analysis of complications following participation in transplant tourism. *Clinical Transplantation*, 26(3): E232-E41.

Beaucamp, T. L. (2003). Methods and principles in biomedical ethics. *Journal of Medical Ethics*, 29(5): 269-274.

Berglund, S., & Lundin, S. (2012). 'I had to leave': Making Sense of Buying a Kidney Abroad. In: M. Gunnarson & F. Svenaeus (Eds.), *The Body as Gift, Resource, and Commodity: Exchanging Organs, Tissues, and Cells in the 21st Century* (Södertörn Studies in Practical Knowledge 6). Huddinge: Södertörns högskola, p. 321-342.

Bile, K. M., Qureshi, J. A. R. H., Rizvi, S. A. H., Naqvi, S. A. A., Usmani, A. Q., & Lashari, K. A. (2010). Human organ and tissue transplantation in Pakistan: when a regulation makes a difference. *Eastern Mediterranean Health Journal*, 16: S159-S166.

Budiani-Saberi, D. A.,& Delmonico, F. L. (2008). Organ Trafficking and Transplant Tourism: A Commentary on the Global Realities. *American Journal of Transplantation,* 8: 925-929.

Bureau of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2007). *Trafficking in human beings. Fifth report of the National Rapporteur*. The Hague: BNRM.

Bureau of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2009). *Trafficking in human beings. Seventh report of the National Rapporteur*. The Hague: BNRM.

Bureau of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2012). *Trafficking in human beings for the purpose of the removal of organs and forced commercial surrogacy.* The Hague: BNRM.

Bureau of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2014). *Trafficking in Human Beings. Visible and Invisible II. A quantitative report 2008-2012.* The Hague: BNRM.

Buren, M. C. van, Massey, E. K., Maasdam, L., Zuidema, W. C., Hilhorst, M. T., IJzermans, J. N., & Weimar, W. (2010). For love or money? Attitudes towards financial incentives amongst actual living kidney donors. *American Journal of Transplantation*, 10: 2488-2492.

Codreanu, N., Ambagtsheer, F., Weimar, W., Jong, J. de, & Ivanovski, N. (2013). Brokers. In: A. Pascalev et al., *Trafficking in human beings for the purpose of organ removal: A comprehensive literature review,* p. 41-45. Available on www.hottproject.com

Cohen, L. (2003). Where it hurts: Indian material for an ethics of organ transplantation. *Zygon*, 38(3): 663-688.

College van procureurs-generaal (2006). *Aanwijzing mensenhandel. (Instructions for Combating Human Trafficking.)* College van procureurs-generaal.

Council of Europe (2014). *Factsheet. Council of Europe Convention to combat trafficking in human organs.* Consulted on 9 September 2014 via http://hub.coe.int/en/web/coe-portal/press/newsroom?p_p_id=newsroom&_newsroom_articleId=1955119&_newsroom_groupId=10226&_newsroom_tabs=newsroom-topnews&pager.offset=0

Council of Europe & United Nations (2009). *Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs.* Strasbourg: Council of Europe, Directorate General of Human Rights and Legal Affairs.

Council of Europe Steering Committee on Bioethics (CDBI) & European Health Committee (CDSP) (2004). *Replies to the questionnaire for member states on organ trafficking.*

Cronin, A. J., Johnson, R. J., Birch, R., Lechler, R. I. G. R., & Randhawa, G. (2011). Solving the Kidney Transplant Crisis for Minority Ethnic Groups in the UK: is being transplanted overseas the answer? In: W. Weimar, M. A. Bos & J. J. Busschbach (Eds.), *Organ Transplantation: Ethical, Legal and Psychosocial Aspects Expanding the European Platform.* Lengerich: Pabst Science Publishers, p. 62-72.

Danovitch, G. M., & Delmonico, F. L. (2008). The prohibition of kidney sales and organ markets should remain. *Current Opinion Organ Transplant*, 13(4): 386-394.

De Castro, L. D. (2003). Commodification and exploitation: arguments in favour of compensated organ donation. *Journal of Medical Ethics*, 29: 142-146.

Dijk, G. van, Ambagtsheer, F., & Weimar, W. (2011). Wet tegen orgaanhandel is dode letter. (The law against trade in organs is a dead letter). *Medisch Contact*, 13: 778-781.

Erin, C. A., & Harris, J. (2003). An ethical market in human organs. *Journal of Medical Ethics*, 29: 137-138.

Evans, R. W. (2008). Ethnocentrism is an unacceptable rationale for health care policy: A critique of transplant tourism position statements. *American Journal of Transplantation*, 8: 1089-1095.

Geesink, I., & Steegers, C. (2011). *Nier te koop, baarmoeder te huur. De wereldwijde handel in lichaamsmateriaal.* (*Kidney for sale, womb for rent. The worldwide trade in body material.*) Amsterdam: Bert Bakker.

Goodwin, M. (2006). *Black Markets. The supply and demand of body parts.* New York: Cambridge University Press.

Goyal, M., Mehta, R. L., Schneiderman, L. J., & Sehgal, A. R. (2002). Economic and health consequences of selling a kidney in India. *The Journal of the American Medical Association*, 288(13): 1589-1593.

Haken, J. (2011). *Transnational Crime in the Developing World.* Washington DC: Global Financial Integrity.

Holmes, P. (2009). *Manuel for Law Enforcement Officers on Detection and Investigation of Trafficking Related Crimes, developed at the request of IOM in Ukraine in co-operation with the Ministry of Interior and General Prosecutor's Office of Ukraine.* Kyiv: Tiutiukin.

Inston, N. G., Gill, D., Al-Hakim, A., & Ready, A. R. (2005). Living paid organ transplantation results in unacceptably high recipient morbidity and mortality. *Transplant Proceedings*, 37(2): 560-562.

Ionescu, C. (2005). Donor charged in Romania's first organ trafficking trial. *The Lancet*, 365(9475): 1918.

Klaver, J., Leun, J. van der, & Schreijenberg, A. (2014). *Vooronderzoek oneigenlijk gebruik verblijfsregeling mensenhandel.* (*Preliminary investigation improper use of the residence scheme for victims of human trafficking.)* Amsterdam: Regioplan.

KLPD, Dienst Nationale Recherche (2005). *Mensenhandel. Deelrapport criminaliteitsbeeld 2005. (Crime Assessment on Human Trafficking.)* Driebergen: KLPD, DNR.

KNMG (2012). *Handreiking Beroepsgeheim en politie/justitie* (herz. versie februari 2012). Koninklijke Nederlandsche Maatschappij tot bevordering der Geneeskunst. [KNMG's Manual on Professional Secrecy and police/judiciary, available in English: *Rules of thumb: guidelines for dealing with medical data.*]

Kranenburg, L. (2007). *Psychological and Ethical Aspects of Living Kidney Donation* (Proefschrift Erasmus Universiteit Rotterdam).

Leun, J. van der, & Vervoorn, L. (2004). *Slavernij-achtige uitbuiting in Nederland. Een inventariserende literatuurstudie in het kader van de uitbreiding van de strafbaarstelling van mensenhandel.* (*Slavery-like exploitation in the Netherlands. An exploratory literature study in the context of the expansion of the criminalization of human trafficking.*) Den Haag: Boom Juridische uitgevers.

Lundin, S. (2011). *The great organ bazar.* Project Syndicate: a World of Ideas.

Lundin, S., Gunnarson, M., & Byström, I. (2013). Organ Suppliers. In: A. Pascalev et al., *Trafficking in human beings for the purpose of organ removal: a comprehensive literature review*, p. 34-40. Available on www.hottproject.com

Malakoutian, T., Hakemi, M. S., Nassiri, A. A., Rambod, M., Haghighi, A. N., Broumand, B., & Fazel, I. (2007). Socioeconomic Status of Iranian Living Unrelated Kidney Donors: A Multicenter Study. *Transplant Proceedings*, 39(4): 824-825.

Maurik, H. M. van, & Meij, P. P. J. van der (2012). In: C. P. M. Cleiren, R. Verpalen & J. H. Crijns (red.), *Strafrecht: de tekst van het Wetboek van Strafrecht en enkele aanverwante wetten voorzien van commentaar (Criminal law: annotated text of the Dutch Penal Code and some other related legislation)* (Tekst & commentaar). Deventer: Kluwer.

Mendoza, R. L. (2010). Colombia's organ trade: Evidence from Bogota and Medellin. *Journal of Public Health*, 18(4): 375-384.

Meulenbelt, S. E. (2010). *Illegale orgaanhandel. Over betrokkenheid van Nederland(ers) bij illegale orgaanhandel* (*Illegal organ trade. On the involvement of the Netherlands and Dutch nationals in the illegal trade in human organs*) (Masterscriptie Universiteit Utrecht).

Meyer, S. (2006). Trafficking in Human Organs in Europe: A Myth or an Actual Threat? *European Journal of Crime, Criminal Law & Criminal Justice*, 14(2): 208-229.

Moniruzzaman, M. (2012). "Living Cadavers" in Bangladesh: Bioviolence in the Human Organ Bazaar. *Medical Anthropology Quarterly*, 26(1): 69-91.

OSCE (2013). *Trafficking in human beings for the purpose of organ removal in the OSCE region: Analysis and findings* (Occasional Paper Series no. 6). Vienna: Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings.

Paguirigan, M. S. (2012). Sacrificing something important: the lived experience of compensated kidney donors in the Philippines. *Nephrology Nursing Journal*, 39(2): 107-117.

Pancevski, B. (2006). Bulgarian hospital admits role in illegal transplants. *The Lancet*, 367: 9509.

Pearson, E. (2004). *Coercion in the kidney trade? A background study on trafficking in human organs worldwide. Sector Project against Trafficking in Women*. Eschborn: Deutsche Gesellschaft für Technische Zusammenarbeit GmbH.

Raad van Europa (2002). *Kaderbesluit van de Raad van 19 juli 2002 inzake bestrijding van mensenhandel. (Framework of the Council of 19 July 2002 on combating trafficking in human beings.)* Publicatieblad van de Europese Gemeenschappen, 1 augustus 2002, L 203.

Raad voor de Volksgezondheid en Zorg (2007). *Financiële stimulering van orgaandonatie. Een ethische verkenning. (Financial incentives for organ donation. An ethical exploration.)* Signalering ethiek en gezondheid 2007/3. Den Haag: Centrum voor ethiek en gezondheid.

Radcliffe Richards, J. (2012). *The Ethics of Transplants: Why Careless Thought Costs Lives.* Oxford: University Press.

Roessingh, M., & Ramesar, P. (2011). *Slaven in de polder. Hoe sekswerkers, schoonmakers en seizoenarbeiders worden uitgebuit.* (*Slaves in the polder. How sex workers, cleaners and seasonal labourers are being exploited.)* Amsterdam: Atlas.

Scheper-Hughes, N. (2000). The global traffic in human organs. *Current Anthropology*, 41(2): 191-224.

Scheper-Hughes, N. (2002). The end of the body: commodity fetishism and the global traffic in organs. *SAIS Review*, 22(1): 61-80.

Scheper-Hughes, N. (2003). Keeping an eye on the global traffic in human organs. *The Lancet*, 361: 1645-1648.

Scheper-Hughes, N. (2004). Parts Unknown. Undercover ethnography of the organs-trafficking underworld. *Ethnography*, 5(1): 29-73.

Schravendijk, S. van (2006). *De handel in organen; stand van zaken en discussie. Een thesis over de internationale orgaanhandel, mensenhandel met het oogmerk van orgaanverwijdering, de betrokkenheid van Nederland(ers), en het ethische debat hieromtrent* (*The trade in organs; current situation and discussion. A thesis on the international trade in human organs, human trafficking for purpose of organ removal, the involvement of the Netherlands and Dutch nationals, and the ethical debate on this matter.*) (Masterthesis Universiteit van Utrecht).

Shimazono, Y. (2007). The state of the international organ trade: a provisional picture based on integration of available information. *Bulletin of the World Health Organization*, 85(12).

State of Israel Ministry of Justice (2011). *Report of the National Coordinator for the Battle against Trafficking in Persons on Trafficking in Persons in Israel.* Consulted on 14 September 2014 via http://www.ungift.org/doc/knowledgehub/resource-centre/Governments/Israel_Ministry_of_Justice_TIP.pdf

Surtees, R. (2008). Traffickers and Trafficking in Southern and Eastern Europe: Considering the Other Side of Human Trafficking. *European Journal of Criminology*, 5(39): 39-68.

United Nations (2000). *Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organized crime.*

United Nations (2006). *Preventing, combating and punishing trafficking in human organs. Report of the Secretary-General.* Economic and Social Council. Vienna: United Nations.

United Nations Office on Drugs and Crime (2006). *Report of the Secretary-General to the Commission on Crime Prevention and Criminal Justice on Preventing, Combating and Punishing Trafficking in Human Organs* (E/Cn. 15/2006/10).

United Nations Office on Drugs and Crime (2012). *Global Report on Trafficking in Persons 2012.*

Vermot-Mangold, R.-G. (2003). *Trafficking in organs in Europe* (Report. Parliamentary Assembly, Social, Health and Family Affairs Committee). Council of Europe.

Working Group on Incentives for Living Donation (2012). Incentives for Organ Donation: Proposed Standards for an Internationally Acceptable System. *American Journal of Transplantation*, 12(2): 306-312.

World Health Organization (2004). Organ trafficking and transplantation poses new challenges. *Bulletin of the World Health Organization*, 82(2): 639-718.

Yea, S. (2010). Trafficking in part(s): The commercial kidney market in a Manilla slum, Philippines. *Global Social Policy*, 10: 358-376.

Media/websites

*Algemeen Dagblad* (8 January 2011). Nederlandse nieren te koop op internet. (Dutch kidneys for sale on the Internet.) Consulted on 13 september 2014 via http://www.ad.nl/ad/nl/4560/Gezond/article/detail/1887519/2011/01/08/Nederlandse-nieren-te-koop-op-internet.dhtml

*Associated Press* (9 March 2005). Three held for organ trafficking. Consulted on 4 September 2014 via http://www.news24.com/World/News/3-held-for-organ-trafficking-20050309

*B92.net* (29 September 2011). Turkish organ trade doctor faces 171 years in prison. Consulted on 4 September 2014 via http://www.b92.net/eng/news/crimes.php?yyyy=2011&mm=09&dd=29&nav_id=76624

Bartens, W., & Mayer, V. Mitten ins Herz. *Süddeutsche.de* (22 August 2014). Consulted on 29 September 2014 via http://www.sueddeutsche.de/gesundheit/manipulationsverdacht-am-herzzentrum-berlin-mitten-ins-herz-1.2100176

*BBC News* (22 September 2000). GMC hears ‘organs for sale’ case. Consulted on 25 August 2014 via www.news.bbc.co.uk/2/hi/health/937204.stm

*BBC News* (30 August 2002). Organ trade GP struck off. Consulted on 25 August 2014 via www.news.bbc.co.uk/2/hi/health/2225357.stm

*BBC News* (15 October 2002). Organ trade GP suspended. Consulted on 25 August 2014 via www.news.bbc.co.uk/2/hi/health/2329447.stm

Berndt, C. Neue Organspende-Skandal in Leipzig. *Süddeutsche.de* (2 January 2013). Consulted on 29 September 2014 via http://www.sueddeutsche.de/gesundheit/manipulierte-daten-am-transplantationszentrum-neuer-organspende-skandal-in-leipzig-1.1562857

Berndt, C. Manipulation leicht gemacht. *Süddeutsche.de* (13 January 2014). Consulted on 29 September 2014 via http://www.sueddeutsche.de/gesundheit/transplantationsskandal-in-goettingen-manipulation-leicht-gemacht-1.1861321

Broadcast *De Week van Filemon*, 30 October 2012

Broadcast *EenVandaag*, 13 June 2007

Broadcast *EenVandaag*, 11 June 2009

Broadcast *Netwerk*, 31 January 2006

Broadcast *Undercover in Nederland*, 29 March 2009. Verkoop nieren en pedofiele praatgroep (Sale of kidneys and pedophile chatgroup).

*Computer Weekly* (22 July 2003). For sale: one blood purification organ.

Cornins, L. Surgeons Win Epic Battle. *Independent Online* (23 February 2013). Consulted on 14 September 2014 via http://www.iol.co.za/news/south-africa/kwazulu-natal/surgeons-win-epic-court-battle-1.1475781#.VBTiNfl_uSo

*De Telegraaf* (14 April 2013). Politie wil Amerikaans onderzoek orgaanhandel. (Police want American investigation into organ trade.) Consulted on 13 September 2014 via www.telegraaf.nl/binnenland/21478460/__Onderzoek_orgaanhandel__.html

Goodman, A. Lebanese mayor arrested in Spain, accused of attempted organ trafficking. *CNN* (12 March 2014). Consulted on 4 September 2014 via http://edition.cnn.com/2014/03/12/world/europe/spain-lebanon-mayor-organ-allegations/

Gouresky, O. Israeli surgeon jailed for organ trafficking to be extradited from Ukraine. *Ynetnews.com* (31 August 2009). Consulted on 4 September 2014 via http://www.ynetnews.com/articles/0,7340,L-3769748,00.html

Meléndez. J. How Costa Rica became the centre of global human-organ trafficking ring. *El Pais* (17 March 2014). Consulted on 4 September 2013 via http://elpais.com/elpais/2014/03/17/inenglish/1395085976_320480.html

*Metro* (10 June 2011). Je nier of je lever: handel in organen. (Your kidney or your liver: trade in organs.) Consulted on 13 September 2014 via http://www.metronieuws.nl/nieuws/je-nier-of-je-lever-handel-in-organen/SrZkfj!YGxRpOUlfUIKM/

Nair, N. Netcare charged in organs-for-cash scam. *Times Live* (15 September 2010). Consulted on 14 September 2014 via http://www.timeslive.co.za/local/2010/09/15/netcare-charged-in-organs-for-cash-scam

*NOS* (18 September 2014). “Orgaanhandel bij bootvluchteling”. (Organ trade among boat refugees.) Consulted on 26 September 2014 via http://nos.nl/artikel/699954-orgaanhandel-bij-bootvluchteling.html

Ramesar, P. Een nier in ruil voor mijn meisje. (A kidney in exchange for my girl.) *Trouw* (6 August 2011). Consulted on 13 September 2014 via http://www.trouw.nl/tr/nl/5009/Archief/archief/article/detail/2839463/2011/08/06/Een-nier-in-ruil-voor-mijn-meisje.dhtml

Ramesh, R. Indian police arrest suspected kidney snatching gang. *The Guardian* (25 January 2008). Consulted on 13 September 2014 via http://www.theguardian.com/world/2008/jan/25/india.randeepramesh

Sahuquillo, M. R., & Duva, J. Five arrested in Spain's first case of human organ trafficking. *El Pais* (12 March 2014). Consulted on 4 September 2014 via http://elpais.com/elpais/2014/03/12/inenglish/1394620383_790202.html

*Sofia News Agency* (9 March 2005). Sofia, Istanbul Bust Human Organ Trafficking Ring. Consulted on 4 September 2014 via http://dev11w.ibs.bg/facetoface/home.nsf/0/E892B1DFD3D934B2C2256FC1003D962B

*Tales from the Organ Trade* (2013). A film by Ric Esther Bienstock, narrated by David Kronenberg.

Thakur, B. S. Kidney racket: Mastermind doctors get 7-yr jail. *Hindustan Times* (23 March 2013). Consulted on 13 September 2014 via http://www.hindustantimes.com/india-news/punjab/kidney-racket-mastermind-doctors-get-7-yr-jail/article1-1030875.aspx

*The Telegraph* (10 November 2010). South African hospital pleads guilty to organ trafficking case. Consulted on 14 September 2014 via http://www.telegraph.co.uk/news/worldnews/africaandindianocean/southafrica/8124710/South-African-hospital-pleads-guilty-to-organ-trafficking-case.html

www.donorregister.nl/english, consulted on 2 February 2014

www.nierstichting.nl/nieren/onzenieren/feiten-en-cijfers, consulted on 2 February 2014

www.transplantatiestichting.nl, consulted on 14 September 2014

# Appendix. Relevant sections of laws

## Dutch Organ Donation Act

### Article 2

Consent for the removal of an organ, given in return for compensation in excess to the costs, including loss of income, incurred by the donor as a direct result of the removal of the organ, is invalid.

### Article 7

The donor and any other person from whom, pursuant to this chapter, consent is required, shall solely be reimbursed for the costs referred to in article 2.

### Article 8

The removal of an organ from a living donor shall be permitted only if consent is given pursuant to article 3, 4 or 5.

### Article 32

1. A party who deliberately contravenes the provisions of articles 8 and 21 shall be punished with a term of imprisonment not exceeding one year or a fourth-category fine.

2. With the same punishment shall be punished:
a. someone who deliberately causes or encourages another person to consent to a third party to the removal of an organ during lifetime in return for compensation in excess of the costs referred to in article 2, or who deliberately causes or encourages another person to act in violation of article 7;
b. someone who openly offers compensation for the receipt of an organ in excess of the costs referred to in article 2, or who puts himself forward as a donor in return for such a compensation, or who offers services which involve activities punishable under subsection a;
c. someone who draws attention to the need for or the availability of organs with the purpose of offering or receiving financial or similar benefits.

## Article 273f paragraph 1 Dutch Penal Code

As guilty of human trafficking shall be punished with a term of imprisonment not exceeding twelve years or a fifth-category fine:

1° someone who by means of coercion, the threat or use of force or another factuality, extortion, fraud, deceit, abuse of power derived from factual circumstances, abuse of a vulnerable position, or the giving or receiving of payments or benefits in order to achieve the consent of a person having control over another person, recruits, transports, transfers, harbours or receipts another person, including the exchange or transfer of control over that person, for the purpose of (...) the removal of that person's organs;

2° someone who recruits, transports, transfers, harbours or receipts another person, including the exchange or transfer of control over that person, for the purpose of (...) the removal of that person's organs, while that person has not yet reached the age of eighteen years;

4° someone who by any of the means described under 1° coerces or persuades another person (...) to provide his organs, or who under the circumstances described under 1° takes any action of which he knows or should reasonably suspect that it will result in the other person (...) providing his organs;

5° someone who persuades another person (...) to provide his organs against payment or who undertakes any action in respect of another person of which he knows or should reasonably suspect will result in the other person (...) providing his organs against payment, while that person has not yet reached the age of eighteen years;

7° someone who knowingly derives benefits from the removal of the organs of another person, while he knows or should reasonably suspect that those organs have been removed under the circumstances described under 1°;

9° someone who uses any of the means described under 1° to coerces or persuades another person to make him benefit from the proceeds of (...) the removal of that person's organs.