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NEWS AND VIEWS

A New Law on Organ Donation in Greece: One More Effort to Advance Transplants

MARIA CANELLOPOULOU-BOTTIS
Ionian University, Greece; Faculty Fellow 2000 2001, Center for Ethics and the Professions, Kennedy School of Government, Harvard University.

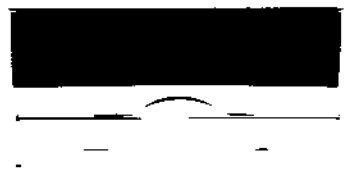
We care about transplants. Our surgeons, our medical teams specialized in transplants are in a constant everyday agony, because internationally, and more so in Greece, the shortage of organs for donation is acute; thousands of patients are on depressing waiting lists and the public does not seem to have any 'advanced' ideas on organ donation. Again internationally, some decades after the first successful transplant of human tissue, the legal and medical questions and dilemmas pressing for an immediate answer, as medical technology has worked miracles in the transplants field, are not resolved at all; rather, year by year, these questions just multiply.

1. Statutory regulation of transplants in Greece before 1999

In Greece, until 1968 no transplant from a dead body was legally possible. Medical Schools were also not legally permitted to use dead corpses for teaching purposes[1]. The first successful kidney transplant operation was in 1967, the first liver transplant in 1966, the first heart transplant in 1990 and the first lung transplant in 1992. But a 'real' law on transplants was enacted as late as in 1978, ten years after the first kidney transplant in Greece.

L. 821/1978 dealt with the 'removal and transplantation of biological material of human nature'.

A better and more detailed law on transplants was enacted in 1983, only five years after L. 821/1978. This statute was destined to live substantially longer than its predecessor, namely sixteen years, so the Greek medical and legal communities had the opportunity to monitor this last law's function as a



propeller for transplants for a long period.

L. 1383/1983 'on removal and transplantation of human tissue and organs covers the question of organ donation both from a living and a deceased donor. This statute's provisions could not apply in self-transplantation (meaning in transplants where donor and donee are the same person), in the removal and transplant of testicles and ovaries, in blood transfusions, in the use of eggs or sperm and in *in vitro* fertilization (Art. 1 sec. 2). All organs usually transplanted, kidneys, liver, heart etc fell into the ambit of this law. The statute now in force, as we shall see, repeated this provision verbatim.

The main guideline of the L. 1383/1983 was naturally the prescription of the commercialization of human organs (Art. 2). Removal of organs and transplants from a living donor were only allowed for therapeutic purposes (Art. 5). Transplant of bone marrow was specially regulated (Art. 5 sec. 2), in order to allow bone marrow donation between minor siblings. Donation from a minor person was only allowed for bone marrow transplantation. Art. 8 provided for an absolute confidentiality of information on the deceased's identity. Last of the general guidelines, no physician belonging to the transplant team could participate in the declaration of brain death (Art. 7, sec. 5).

On transplants from a living donor, Art. 5 allowed organ donation only from competent adult donors, whose organ or tissue is suitable for the transplant in question, and whose life or health will not be at serious risk from the removal of this organ or tissue. Of course, the living donor must state freely her will to donate the organ or tissue. The patient who will receive the organ must also agree with the donation. Art. 5 sec. 3, on informed consent, provides (only) that the physicians are obliged to inform the donor in detail on all possible consequences of the removal of the organ.

The controversial question of consent for organ donation from deceased persons was resolved as follows. Every competent person could state in writing or orally that she wished to become a donor after her death (Art. 7 sec. 1). But, in case where no such declaration existed, the removal of organs or human tissues for transplantation was allowed (sec. 2, Art. 7)'. Removal was not allowed only if there has been an opposition, even implied, by the now deceased person while alive, due to this person's religious or philosophical beliefs (sec. 3, Art. 7). This was obviously a system of a quite strong presumed consent, as the deceased person's family is not mentioned absolutely nowhere in the text of the statute. It could also be supported that this was, or at least could turn into, a system of routine salvaging' of organs: the medical team had the legal potential to remove organs from any deceased person in a hospital, when they had no reason to believe that this person opposed organ donation. In fact, though, the medical teams always asked for the family's permission to

remove organs; but this was not a matter of a legal obligation. The statute provided that a decision by the Minister of Health would describe the procedure and the standards by which the medical transplant team would ascertain this 'implied opposition' of the deceased person/donor, but this very important decision was never issued[4].

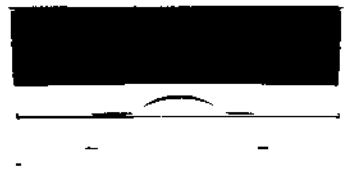
Lastly, L. 1383/1983 (Art. 4) was a first attempt to regulate tissue banks. Specific ministerial decisions would state the terms and conditions of the operation of tissue banks. Also, all tissue banks had to be licensed by the Ministry of Health or any other competent ministry. But apart from these provisions, there was no other legal restriction: tissue banks could be public or private institutions, for profit or not-for-profit organizations. It rested in fact solely with the discretion of the Ministers to license a particular, public or private, tissue bank.

L. 1383/1983 regulated transplants in Greece for sixteen years (1983-1999). This statute was certainly a modern law; medical-legal communities have not really had any objections to the provisions of this statute.

2. L. 2737/1999 'on transplants of human tissue and organs'

a. National Transplants Organization

Fifteen years later, L. 2737/1999 was enacted. A major part of this law is dedicated to a new national institution for transplants. The statute instituted the National Transplants Organization. Its mission is the designing and implementing of a national policy favouring transplants. The Organization is competent to introduce the terms, conditions and the procedure of transplants, also a code of ethics on the operation of the Transplantation Units and Tissue Banks in Greece. The Organization is also obliged to register all donors of tissue and organs, potential donors and patients in the waiting lists, to organize and coordinate the procurement of organs (also bone marrow) locally, nationally and between states. The Organization may propose the licensing of a Transplantation Unit, or a Tissue Bank to the Minister of Health. Every year, the Organization must compile a report, assessing the function and effectiveness of the Transplantation Units. The Organization must also cooperate with relevant institutions of other countries, in order to exchange organs for transplants. The Organization shall provide all necessary psychological and social assistance to the transplanted patients, living donors and donors' relatives. Lastly, the Organization aims at the augmentation of the availability of transplants organs, especially by informing the public in an adequate way.



A first and obvious comment on the National Transplants Organization was that it was 'born' really late: almost thirty years after Eurotransplant[5], the international structure organizing organ exchange and transplantation in Europe. None of the two previous laws on transplants provided for a much-needed national organization responsible for the promotion, monitoring and surveillance of transplants. The wide[6] range of professionals in the Board of its Directors ensures the most democratic function of this important policy vehicle; we have to see, though, whether this large scheme is flexible and effective in practice. The institution is also aided by 23 personnel members, 8 persons with a special scientific status and 15 personsas 'Transplantation Coordinators'.

b. General Guidelines of L. 2737/1999

The general guidelines in the statute are the same as the ones of the previous law. The statute applies in the same transplant cases[7] and Art. 2 prescribes any financial exchange in connection with organ transplantation[8]. (Only the payment of medical costs necessary to the removal, preservation and transportation of the graft is allowed). The removal or organs for transplants is allowed strictly for therapeutic (and not research) purposes (Art. 10, sec. 1). Bone marrow transplant is regulated separately, so that minors may donate to their siblings (Art. 10, sec. 1). The statute, of course, 'accepts' the notion of brain death ('removal is possible, after death, even if some functions of the body are technically preserved', Art. 12, sec. 1. 'when the attending physician ascertains the necrosis of the brain and as long as the functions of certain organs are preserved by mechanical means, then the physician is obliged to issue a death certificate', Art. 12, sec. 6). Strict confidentiality protects the identity of the dead donor (Art. 13). Again, no physician belonging to the transplant team may certify the donor's death (Art. 12 sec. 6).

c. Tissue Banks

There is an important change in the new law on tissue banks[9]. We have seen above that under L. 1383/83, the State did interfere in tissue banks' operation, in the sense that ministerial decisions would determine terms and conditions of their operation and that these banks had to have an operating license by the Ministry. The new law posed some very important restrictions on tissue banks: a. they are instituted by ministerial decisions, after National Transplants Organization has offered a relevant positive opinion; tissue banks operate (only) in state hospitals or not-for-profit private hospitals or in 'Dimocritos' (a state research center). The National Transplants Organization

shall also propose the terms of tissue banks' formation and control and their possible categories; then, the Minister of Health and other competent Ministers shall edit the relevant decisions.

Until very recently, most European countries had not regulated the organization and operation of tissue banks[10]. The new law in Greece has in effect ruled out the possibility of a private-for-profit tissue bank; also, no private hospitals and medical centers are allowed to have their own tissue banks. Contrary to a practice well known in the US[11], the door in Greece is at least not as open to commercialization of tissues. Still, there is a long way to go: organ trading is strictly forbidden, but a Greek surgeon can always order and buy tissues from a European or American tissue bank and the law is silent on this possibility[12].

Under the European Convention on the Protection of Human Rights and Human Dignity in relation to the Applications of Biology and Medicine, ratified in Greece with L. 2619/1998, the human body and its parts shall not be as such a source of financial gain (art. 21). Moreover, under article 22, the use of any body part extracted during an operation for a different purpose other than the purposes for which it was extracted is legally possible only if the patient was informed and consented to this use. This law, as the ratification of a European Convention, is higher in authority than any other different, or contrary, internal statute (Art. 28, Greek Constitution). It looks, therefore, like any financial dealings in connection to human tissues is prescribed, but there is a definite need for much more explicit and detailed internal legislation to cover and control all possible cases of tissue commercialization, especially through tissue banks.

d. The Use of Fetal Tissue for Grafting

A noted omission in the new law is any mention of the fetal tissue grafts. The medical community has come to the conclusion that this sort or transplants or research may greatly benefit patients with a very wide range of diseases: neurological illnesses, spinal cord injury, blindness, epilepsy etc[13]. Fetal tissues present some very important advantages, from the research/transplant point of view, such as: they develop quickly and they do not cause any adverse reaction to the donee[14].

In Greece, all abortions are legal during the first twelve weeks of pregnancy. Until the 24th week of fetus' life abortion is possible under certain conditions (the fetus is seriously ill and will be born impaired-Art. 305CrC sec. 4, a and b). Also, the termination of a pregnacy which bears grave risks for the life or health of the mother is legal anytime before birth (Art. 304CrC sec. 4, c). Last, when the pregnancy was the result of rape, incest, seduction

of a minor or exploitation of a woman unable to resist, then abortion is legal until the 19th week of pregnancy (Art. 304CrC sec. 4, d). So, there is a wide range of legal abortions in Greece and therefore, Greece is a pro-choice country. But there is absolutely no ad hoc regulation of the possible use of the products of an elective or spontaneous abortions, for transplant or research purposes. Anyway, as the fetus is considered part of the woman's body, her consent to the use of fetal tissue for transplant or research purposes[15] is absolutely necessary. Lastly, the European Convention on Human Rights and Biomedicine does not forbid the use of fetal tissue for grafting; only the creation of human embryos for research is strictly prohibited (Art. 18.2).

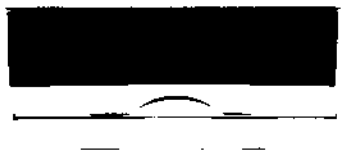
e. The 'line' for an organ

In none of the previous statutes on transplants, L. 821/1978 and L. 1383/1983, was there any mention at a crucial and tormenting point: the choice of the recipient of an organ, when this organ is available for transplantation. The new law dedicated a whole long article on 'Candidate Donees' (Art. 7), as an effort to outline the standards of this tragic selection[16]. The start for a candidate organ recipient is his registration in the Register of the National Transplants Organization. It remains of course in the discretion of the patient's physician in collaboration with a transplantation unit to determine, according to medical rules and ethics, whether a particular patient is a transplant candidate (Art. 7, sec. 1).

But this initial screening of candidates is not final. A candidate whose application for the Register was rejected, or whose name was at a later point taken off the National Register may file a motion before the National Transplants Organization. The institution shall then remand the case in another Transplantation Unit, and this second one will determine the candidate donee's suitability, along with the patient's attending physician.

After the registration, the patient is put on a waiting list for an organ. The statute, in sec. 3, Art. 7, enumerates the standards governing graft allocation. The relevant factors in the article carry all the same 'weight', as no other indication exists in the statute; also, the list is not exclusive, as proven by the word 'like' ('organ allocation...shall take place according to standards like...'). These standards are:

a. The patient's blood type
b. The tissue/organ degree of match
c. Medical emergency of the operation
d. Time spent on the waiting list
e. The patient's age



f. Body weight
g. Closeness of the place of graft removal to the transplantation place

While the statute refrained from awarding any degree of importance to any of the above factors, it also 'opened the door' for such a balancing: the Minister of Health may decide, after an opinion by the National Transplants Organization, how important these, or any other factor, should be in graft allocation. The only statutory balancing of standards is the last section of the article, where it is provided that, when all standards are equal, then any patient who had been an organ donor shall take precedence over any other. This priority is also the only 'payment' offered in law to an organ donor.

f. Living Donor-classes of donors and informed consent

A donation of an organ by a living donor is only allowed to a close relative of this donor, except in bone-marrow transplants. But before the question of 'relative' is reached, a number of other factors must be examined.

First, the possibility of a cadaveric transplant must be ruled out (Art. 10, sec. 1); the non-existence of another therapeutic method of a comparable effectiveness must be ascertained; last, the removal of the organ/tissue in question must not bear serious life or health risks for the donor.

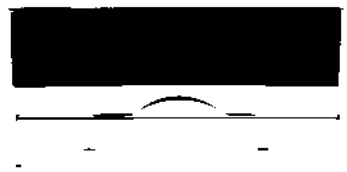
The class of relatives who are allowed to donate comprises:

a. The patient's spouse
b. The patient's natural parents and children
c. The patient's sisters or brothers of the whole blood
d. The patient's aunts, uncles, cousins and nephews of the whole blood and
e. The patient's grandparents or grandchildren of the whole blood[17]

No minor is allowed to donate an organ or tissue, except for bone marrow. In this last case, after the graft match is checked and no other compatible donor exists, donation is possible with the consent of both parents, regardless of who of him or her may have the minor's custody. If the minor is 12 years old or above, the minor has to consent to the donation.

The live donor must be competent to consent to the operation. Informed consent requirements in the statute comprise the obligation to inform the living donor on the purpose, the nature and the possible risks of the operation[18].

Consent may be obtained in writing or orally. An oral declaration will be filed in a special Register of the medical unit where the transplant is scheduled. Two witnesses must sign the declaration. Consent may be revoked



any time prior to the beginning of the removal process (Art. 10, sec. 7).

g. Dead Donor-the crucial issue of consent

We have already seen, in the statute's general guidelines, that brain death is accepted as death. A physician who ascertains brain death shall issue, along with an anesthesiologist and a neurosurgeon or neurologist, the death certificate. So, three doctors must sign the death certificate of a brain-dead person (Art. 12, sec. 6). It is true that the statute does not define brain death, or even enumerate the standards of definition or the necessary diagnostic tests on brain death. But this 'omission' is certainly positive, because, first of all, it leaves a medical matter where it belongs (on physicians) and because the evolutions of medical science are unpredictable, so any brain death standards may constantly change[19].

The next step is the reporting of the patient's (and possible donor's) death to the National Transplants Organization. Officials from the organization in cooperation with the patient's attending physician shall inform the relatives of the death and of the possibility of an organ donation[20]. The family then is offered the opportunity to accept or refuse donation, so far as the donor had not consented or rejected in writing organ donation, while still alive.

Section 4 of Art. 4 deals with the crucial issue of consent. Removal of an organ or tissue from a dead donor, who has not expressed in writing a preference for or against donation, is allowed, if this person's spouse, adult children, parents or siblings do not oppose donation.

In comparison to the previous law, where the family is mentioned nowhere, but where consent was generally presumed (if no indications to the contrary existed), L. 2737/1999 seems like 'a step back'. Whereas Greek physicians followed the practice of asking the family's permission for an organ donation, this practice was not embodied into law. The implied acceptance of a practice which has, nevertheless, been submitted to quite a lot of criticism is one thing; the legislative recognition of this practice is certainly another[21].

In an effort to recruit as many donors as possible, the law provides that the National Transplant Organization may issue special organ donation forms. In every national census, people could be asked to fill out these forms. Otherwise, Municipalities and insurance organizations may also seek the filling in of comparable forms. The problem besides the efficacy of this required response system is that, even assuming that there is a form allowing donation, and the person dies in an accident, no physician would dare to remove organs against the wishes of the family, especially when the family's wishes have acquired legal importance and statutory recognition-even when

the physician is assured that, with the express consent of the donor, the family's opinion is irrelevant.

But we do not have to go this far, for until today no universal application of this form filling in has taken place, and the chances are that the potential donor has never left a writing on organ donation. In this case, the law is clear: family consent.

Sec. 4 Art. 12 lists spouses, adult children, parents and siblings as members of the donor' s family who must not oppose donation. In the way the section is phrased, no one of this class must oppose donation. If even one person among these disagrees, even a person who has not lived with the donor for any number of years, then no transplant may legally take place.

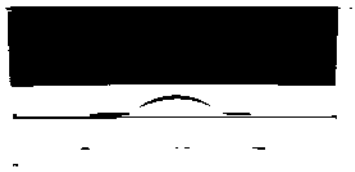
g. Criminal penalties

Lastly, the new law contains a whole chapter (E) on criminal sanctions. Every person who intentioanlly breaches the provisions on transplants from a living or a dead donor shall be liable to at least one-year imprisonment and a pecuniary penalty of at least 2.000.000Dr. Every person who agreed or received a benefit (like money) for giving one of his organs for a transplant is liable to a pecuniary penalty of at least 2.000.000Dr. Any person who agrees or receives any benefits in order to intervene in a transplant procedure is liable to at least one-year imprisonment and to at least 5.000.000Dr. pecuniary penalty. Every person who receives or offers to receive human tissues or human organs in exchange for a benefit is liable to at least one year imprisonment. When the organ or tissue is acquired for sale, then the penalty is at least three years imprisonment and 10.000.000Dr, pecuniary penalty. Finally, if an organ is used on a person not listed in Art. 10 (live donations), then the pecuniary penalty is 5.000.000Dr.

Penalties under the old statute, L. 1383/1983 (Art. 10), were significantly less severe; for example, the penalty for sale of organs was imprisonment of at least two years (two years is the Greek upper limit for the transformation of a sentence to jail imprisonment into a pecuniary penalty instead) and into 200.000Dr. pecuniary penalty.

3. Last comments

L. 2737/1999 is one more, and an important, legislative effort to regulate and advance transplants in Greece. The creation of the National Transplants Organization was certainly a very positive step towards progress. It is still early to assess the Organization's work, but it is true that the Greek legislator



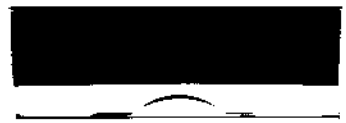
offered an ample opportunity of success. A forum in Greece with a certain standing of cooperation with other comparable national and international organizations promises a lot for the future.

L. 2737/1999 accentuated the role of the family in consenting to organ donation from a deceased donor. Our system is now a weak version of presumed consent, as the opposition of any one member of the dead donor's family is enough to cancel the organ donation. The system replaced the much stronger presumed consent[32] previous system. This change, albeit perhaps insignificant practically, shows a different legislative intent: to involve the family in a determinative way. An effort towards the parallel force of a 'required response' system (Art. 12) could produce a better result for transplants, but it is very early now to assess this.

On informed consent by a living donor, the statute could have dedicated a separate article on the obligation to inform. It is true that, even in the European Convention of Oviedo, information and consent to a medical intervention were dealt together in the article on 'consent'; still, this is not a satisfying result. It undermines the necessity and importance of the disclosing of information in a particularly vulnerable field, as transplantation. The statute does not oblige any particular person to inform, nor does it provide for a written record of the procedure of informing and consent, in which the person/physician who fulfilled this obligation would also be reported[33]. There is therefore no true possibility to check whether the information disclosed satisfied the legal standard, nor even the possibility to have some proof of who in fact informed the candidate donor; we know that the mere signature of a consent form does not mean that the legal requirements of informed consent were in fact met. Also, in relation to the words 'purpose, nature and potential risks of the operation in the statute (Art. 10 sec. 4 – a repetition of the same terms of the European Convention, with the omission of 'consequences', Art. 5), we have to note that the statute could have been much more detailed and explained in specific terms.

The strong medical tradition, so much directed towards the provision of care, but not towards the provision of information[34], and hence not towards the protection of patient's freedom of choice, should warn lawmakers to insist even more on clear rules of the disclosing of medical information. Lawmakers should not, of course, play 'doctors', any more than doctors should play 'God'; but we have come a long way in investigating the patient/doctor relationship, and we know now how important interests is patient choice are, and how they have been, and perhaps still are, undermined by the medical community, for a variety or – legitimate or not – reasons. Statutes should now reflect our conclusions.

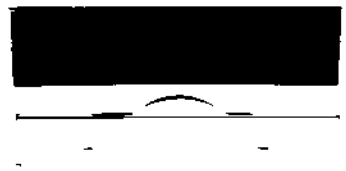
A last note: the new statute does not contain any regulation at all on



xenotransplantation. That current laws on organ transplants are insufficient to provide adequate responses to the regulatory needs of xenotransplantation, so that there is a clear need for a regulatory framework, has been observed in other countries too[25]. Animals are helpless in our hands. So, the way we treat them is the most fundamental indication of our ethical principles. It remains to be seen whether Greece will start, as other countries, showing that animals and their interests are also paramount in Greek law[26].

Notes

1. L. 445/1968 first permitted the legal use of corpses that no next of kin or other person lawfully in possession of a corpse claimed by the Medical Schools.
2. Compared to the US Uniform Anatomical Gift Act, whose original version of 1968 was adopted in every State and whose 1987 version was also widely adopted. This Act allows a donation from a hierarchy of family members, as long as this gift is not inconsistent to previous wishes of the decedent. Also, where no family exists, or where the family refuses to decide, coroners may presume consent and allow the removal of an organ for transplant when there is no reason to believe that the decedent opposed this donation.
3. On routine salvaging of organs, see Dennis, Hanson, Hodge, Krom and Veatch, An Evaluation of the Ethics of Presumed Consent and a Proposal Based on Required Response, A Report of the Presumed Consent Subcommittee United Network for Organ Sharing Ethics Committee, June 30, 1993.
4. See Varka-Adami, *Transplants Law* (in Greek), ed. Sakkoulas, 1993, p. 90.
5. The initial proposal for Eurotransplant was in 1967, see Persijn & Cohen, 'Self-Sufficiency in Europe: Evaluation of Needs,' in *Organ and Tissue Transplantation in the European Union, Management of Difficulties and Health Risks Linked to Donors*, ed. Engert, 1995, 157. Other European transplants organizations include: France-Transplant, Scandia-Transplant, U.K-transplant and Organisazion National de Transplantes (Spain). In England, UKTRA (Unrelated Live Transplant Regulatory Authority) was instituted in 1989, with the Human Organ Transplants Act. In the States, the Uniform Anatomical Gift Act was enacted in 1968 and the Task Force of Organ Transplantation in 1984. The United Network for Organ Sharing (UNOS) started overseeing the network in 1986.
6. The National Transplants Organization is directed by a board of eleven members from diverse backgrounds: Medical School Professors, MD specialized in transplants, Director of Intensive Care Unit, Law Professor, representative of the Greek Medical Association etc. We must also note that in the board also are included: a. a donee or a candidate for transplantation patient, organ or tissue, b. a representative of the Nurses Association and c. representative of the Church of Greece.
7. Not in self-transplantation, blood transfusions etc see above.
8. Although the possibility of organ trafficking has been met with doubt, given the practical difficulties of transplants and the number of persons who should cooperate (see Kreis, 'Worldwide Organ Trafficking: Fact of Fiction?', in *Organ and Tissue Transplantation in the European Union*, id., pp. 67-73) there have been serious reports of illegal international organ sales. In a press report lately, Nina Scompiola, a Moldavian, 35 years old, is reported to be wanted by Interpol, for approaching poor peasants from the ex Soviet Union and 'buying' their kidney for 1 million Dr (app. $2,800). The victims of this illegal sale were transported in Constantinople, where the



kidney was removed and transported again in the West, for another sale, to a needy patient, for 8,5 million Dr (app. $24.000). According to this press release, most 'donors' 'consented' to these agreements, whereas others had to be anesthetized and then transported to Constantinople. Interpol has about 100 cases of illegal organ trafficking, see A 35 years old seller of human kidneys, in '*To Vima*', Monday 29th May, 2000, p. 10 (A10).

9. Tissues for transplants from non-living donors include: corneas, ear ossicles, fascia lata, heart valves, ligaments, osteoarticular grafts, skin, tendons and veins, see Muylle, 'Origin and Circulation of Tissues for Grafting,' in *Organ and Tissue Transplantation in the European Union*, id., p. 133.
10. '...The procurement of organs and tissues is facilitated in several countries (Austria, Belgium, Portugal, Spain) by presumed consent. But, at present, Belgium is the only country (France is preparing a regulation) that has regulated...tissue banks...', Muylle, id., p. 133.
11. Where Cryolife, Georgia Tissue Bank and others do sell tissues; many tissue banks sites also exist in the Internet, in fact marketing their services.
12. In Belgium, a surgeon may only buy tissue from a foreign tissue bank if this tissue is not available in Belgium and is of the same type as tissues stored in Belgium. Moreover, '...the foreign bank must apply identical or equivalent criteria, and the country of origin must offer the same guarantees...', see Muylle, id., 134.
13. See Brotchi, 'Use of Fetal Tissue for Grafting,' in *Organ and Tissue Transplantation in Europe*, id., 147.
14. See Koutselinis, *Fundamental Principles of Bioethics, Medical Ethics and Medical Liability* (in Greek) ed. Parisianou, 1999, p. 249. See also, on American law, Robertson, *Fetal Tissue Transplants* (1988) WashULQ 443.
15. Koutselinis, id., p. 249, supports that the use of Fetal tissue as such is allowed, as the fetus may be considered a dead donor. Also, the use of fetal tissue from spontaneous or elective abortions due to danger for the mothers life is morally permissible (id. p.249).
16. See also Calabresi, *Tragic Choices*, 1982.
17. Compare to the UK, Human Organ Transplants Act 1989, where as genetically related and able to donate, also brothers, sisters, uncles, aunts, cousins and nephews of whole or half blood (section 2).
18. From the informed consent to operations requirements under the European Convention for the Protection of Human Rights and Human Dignity in relation to the Applications of Biology and Medicine (Oviedo, 4.4.1997), L. 2737/1999 omitted information on the consequences of the medical intervention. Also, the European Convention does not limit transplants to close relatives of the patient (Art. 19).
19. See Koutselinis,id. p. 243. Also, see Kotsianos, *Medical Liability*, 1976, '...There is no legal definition of death, nor it is required that there is one. This matter is better left to the medical community...', p. 179.
20. There is some evidence that the simultaneous informing of both of the death of a loved one and of the possibility of a donation may be a factor against the family's consent to the donation; a least, in a research where the possibility to donate was mentioned at another session with the family, the decisions to donate were more. See Progress, American Liver Foundation, May Families Say No to Organ Donation. Also, see 1986 Congress amendments of the US National Transplant Act of 1984, 42 U.S.C. sec. 1320b-8, whereby hospitals are required to establish written protocols for the identification of potential donors that assure that families of potential organ donors are made aware of the option of organ or tissue donation and their option to decline, see also Furrow, Greaney, Johnson, Jost & Swartz, 'US Medical Law,' Kluwer *Encyclopaedia of Laws*, USA p. 157.
21. I do not mean that family should not be involved at all, at least at this point in time. '...The unfortunate reality of cadaveric organ donation is that it is the family, not the

deceased patient, who comes home from the hospital, talks to their friends, neighbors and community about their experience at the hospital, and shapes public opinion about organ donation among those they know. Can the transplantation community afford to go against the wishes of a family for its own apparent gain, even if it is legally entitled to...?', see Klassen & Klassen, 'Who Are the Donors in Organ Donation? The Family's Perspective in Mandated Choice,' *Annals of Internal Medicine*, 1996, 125: 70.

22. I would like to repeat here that Greek physicians always asked the family even with the previous system, but legally the system was a strong presumed consent system.
23. See Varka-Adami, id., p. 52, Androulidaki Dimitriadi, *The Obligation to Inform the Patient*, 1993, (in Greek) p. 251, Agallopoulou, *The Effects of Mental Disease of a Spouse on Marital Cohabitation* (in Greek), ed. Sakkoulas, 1995, p. 55.
24. See Katz, *The Silent World of Doctor and Patient*, 1983, also Canellopoulou-Bottis, *Informed Consent Medical Liability in Greek and Common Law*, (in Greek), 1999.
25. See Romeo-Casabona (1999) 'New Challenges for Organ Transplantation,' *European Journal of Health Law* 6, pp. 205, 208 (editorial).
26. '...ethics cannot merely stop those who don't belong to the same species. Animals and humans must be included in the same ethical universe...', Romeo-Casabona, id., p. 209.