COMMITTEE OF MINISTERS
COMITÉ DES MINISTRES

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

MINISTERS' DEPUTIES Recommendations **CM/Rec(2022)3** 23 February 2022

Recommendation CM/Rec(2022)3 of the Committee of Ministers to member States on the development and optimisation of programmes for the donation of organs after the circulatory determination of death

(Adopted by the Committee of Ministers on 23 February 2022 at the 1426th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

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

Having regard to Resolution Res(78)29 on harmonisation of legislations of member States relating to removal, grafting and transplantation of human substances, and the final text of the 3rd Conference of European Health Ministers (Paris, 16-17 November 1987);

Having regard to the Convention on Human Rights and Biomedicine (ETS No. 164);

Having regard to the Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin (ETS No. 186) and the Explanatory Report thereof, in particular Chapter IV – Organ and tissue removal from deceased persons;

Having regard to the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) and the Council of Europe Convention against Trafficking in Human Organs (CETS No. 216);

Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 005);

Recalling Recommendation Rec(2004)19 of the Committee of Ministers to member States on criteria for the authorisation of organ transplantation facilities;

Recalling Recommendation Rec(2005)11 of the Committee of Ministers to member States on the role and training of professionals responsible for organ donation (transplant "donor co-ordinators");

Recalling Recommendation Rec(2006)16 of the Committee of Ministers to member States on quality improvement programmes for organ donation;

Recalling Recommendation Rec(2006)15 of the Committee of Ministers to member States on the background, functions and responsibilities of a National Transplant Organisation (NTO);

Recalling its Resolution CM/Res(2015)10 on the role and training of critical care professionals in deceased donation;

Recalling the latest available edition of the Council of Europe Guide to the Quality and Safety of Organs for Transplantation, in particular its chapter dedicated to the donation of organs after the circulatory determination of death;

Considering Directive 2010/53/EU of the European Parliament and of the Council of 7 July 2010 on standards of quality and safety of human organs intended for transplantation, as well as Commission Implementing Directive 2012/25/EU of 9 October 2012 laying down information procedures for the exchange, between member States, of human organs intended for transplantation;

Taking into account the World Health Organization (WHO) guiding principles on human cell, tissue and organ transplantation adopted by the World Health Assembly in May 2010;[1]

Taking into account Resolution WHA63.22 of the World Health Assembly on human organ and tissue transplantation;

Taking into account the Madrid Resolution, adopted in 2010,[2] calling member States of the WHO to strive towards self-sufficiency in transplantation;

Taking into account Resolution 71/322 of the United Nations: Strengthening and promoting effective measures and international cooperation on organ donation and transplantation to prevent and combat trafficking in persons for the purpose of organ removal and trafficking in human organs;

Taking into account the Declaration of Istanbul on Organ Trafficking and Transplant Tourism, adopted in 2008 and updated in 2018,[3] in particular principle 11 which states that countries should strive to achieve self-sufficiency in organ donation and transplantation;

Considering that transplantation is the best, if not the only, available treatment for patients with end-stage organ failure and that the shortage of organs is the main obstacle preventing the wider use of transplantation therapies that determines that each year thousands of patients die or endure a poor quality of life while waiting for an organ;

Taking into account that the progressive decline in the pool of potential donors declared dead by neurological criteria makes it increasingly difficult to satisfy the transplantation needs of patients;

Taking into account that donation after the circulatory determination of death (DCDD) may contribute to a greater use of organs with satisfactory post-transplant outcomes;

Considering that decision-making at the end of life should be based not only on medical aspects, but also on moral, welfare and societal considerations and that, within this context, post-mortem donation should be routinely proposed as an option at the end of life;

Aware that programmes for organ donation must guarantee the fairness, transparency and safety of procedures and comply with the national legal framework within member States;

Aware that in European intensive care units many patients die following the decision to withdraw life-sustaining therapies that are no longer deemed beneficial to them, and that those circumstances of death are compatible with DCDD;

Also aware that thousands of patients die every year following an unexpected and witnessed cardiac arrest from which they cannot be resuscitated after advanced cardiopulmonary resuscitation measures fail, and that such circumstances of death are also compatible with DCDD;

Considering that, despite such potential, DCDD programmes have not been developed in all member States;[4]

Acknowledging that legal and ethical aspects are the main obstacles that prevent the development of DCDD programmes in some European jurisdictions and that, to overcome such obstacles, national regulatory frameworks that ensure respect for fundamental human rights, such as the right to human dignity, are required;

Considering that further measures are required to implement robust DCDD programmes in Europe, targeted at public education, continuous professional training, standardisation and monitoring of practices and research in the field,

---

[1] Available at: http://www.who.int/transplantation/TxGP08-en.pdf
[2] The Madrid Resolution on Organ Donation and Transplantation, 2011, vol. 91 (p. 29-31). Available at: https://www.edqm.eu/sites/default/files/medias/fichiers/Transplantation/Legal_Framework/article_the_madrid_resolution_on_organ_donation_and_transplantation_transplantation_journal_june_2011.pdf
[3] Adopted at the International Summit on Transplant Tourism and Organ Trafficking organised by the Transplantation Society and the International Society of Nephrology, Istanbul, Turkey, 30 April-2 May 2008. Available at: https://www.declarationofistanbul.org/
[4] Lomero *et al*., Donation after circulatory death today: an updated overview of the European landscape, Transplant International 2020, 33, p. 76-88.

Recommends to the governments of member States the following:

i. to explore the opportunity of developing DCDD programmes to offer more patients the option of post-mortem donation and increase the availability of organs for transplantation;

ii. for those countries who decide to follow the practice of DCDD, to develop a comprehensive regulatory framework that is continuously revised and aligned with the advancements of medical science; this regulatory framework should specify, at a minimum:

   a. the independence of decisions related to treatment options of patients from any consideration of organ donation;
   b. that professionals who participate in the recovery or transplantation of DCDD organs are not involved in decisions or actions pertaining to the withdrawal of life-sustaining therapies or the termination of advanced cardiopulmonary resuscitation;
   c. the criteria for determining death prior to the recovery of organs;
   d. the ante- and post-mortem interventions to improve the quality of organs for transplantation that are deemed acceptable within that jurisdiction;

iii. to provide healthcare professionals and other relevant professional groups and stakeholders with regular training on the practice of DCDD;

iv. to promote public awareness and understanding of national DCDD programmes;

v. to register information on DCDD procedures and on the outcomes of transplants performed with organs obtained from DCDD donors in the relevant national registries;

vi. to promote research in the field of DCDD to optimise practices and improve post-transplant outcomes with DCDD organs.