

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

COMMITTEE OF MINISTERS

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3RD CONFERENCE OF EUROPEAN HEALTH MINISTERS

Paris, 16-17 November 1987

FINAL TEXT
LIST OF PARTICIPANTS

15.283
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1. The Conference of European Health Ministers met in Paris on 16-17 November 1987 at the invitation of Mrs Michèle BARZACH, French Minister of Health and Family Affairs.
2. Representatives of the member states of the Council of Europe and of Finland took part in the conference. The Parliamentary Assembly of the Council of Europe was represented by the Chairman of the Commission on Social and Health Affairs and five of its members.
3. Canada, the Holy See, Monaco, San Marino and Yugoslavia attended the conference as observers.
4. The following international organisations were represented: the World Health Organisation, the Commission of the European Communities. A complete list of participants is given in Appendix I.
5. The conference was opened by Mr G ADINOLFI, Deputy Secretary General of the Council of Europe, who welcomed all participants in the conference.

On the proposal of Mrs Gertrud SIGURDSEN, Swedish Minister of Health and Social Affairs, the French Minister was elected Chairman and made her opening speech. The Ministers of Ireland and Luxembourg were elected Vice-Chairmen.

6. The subject of the conference was: "Organ transplantation". It was introduced by the French Minister as Chairman of the conference, who developed the ethical and socio-cultural problems. The two other reports on "Organisational and educational aspects of organ transplantation" and "Legislative measures in relation to organ transplantation" were presented respectively by the Netherlands and the Italian Ministers of Health.
7. The conference's conclusions are given in the Final Text adopted at the end of the meeting (see Appendix II) (1). This text contains guidelines on which agreement was reached and which constitute a foundation for future co-operation in this field in Europe.
8. The conference warmly welcomed the invitation made by Dr. A MARKIDES, Director General at the Ministry of Health, on behalf of his Minister, to hold a 4th Conference of European Health Ministers in 1990 in Cyprus on the theme "Health staff training for the 21st century".

(1) The Minister of Health of Spain declared that for the purposes of the Final Text, the term "organ" should be interpreted as equally including embryological material.

A N N E X E I / A P P E N D I X I

LISTE DES PARTICIPANTS/LIST OF PARTICIPANTS

AUTRICHE/AUSTRIA

Doz. Dr. Gunter LIEBESWAR, Director General of Public Health,
Federal Chancellery

Dr. Johann KURZ, Director, Federal Chancellery

BELGIQUE/BELGIUM

Mme W DEMEESTER DE MEYER, Secrétaire d'Etat à la Santé Publique et
à la Politique des Handicapés (excusée)

Mme B BUGGENHOUT, Chef de Cabinet

Dr. J VAN DE VOORDE, Médecin Directeur, Ministère de la Santé
Publique et de l'Environnement

Mr VERKAMMEN, Ministre Plénipotentiaire, Ambassade de Belgique à
Paris

Mr ARCQ, Attaché Culturel, Ambassade de Belgique à Paris

CHYPRE/CYPRUS

Mr Georges C LYTOURGOS, Ambassador of Cyprus in Paris

Dr. A MARKIDES, Director General, Department of Medical Services,
Ministry of Health

DANEMARK/DENMARK

Mrs Agnete LAUSTSEN, Minister for Health

Mme Jette MERSING, Head of Department, Ministry of Health

Mr Niels PREISLER, Personal Secretary to the Minister

Mr Klaus LUNDING, Head of Section, Ministry of Health

Dr. Gunnar SCHIØLER, Chief of Division, National Board of Health

FINLANDE/FINLAND

Mme Helena PESOLA, Ministre des Affaires sociales et de la Santé

Dr. Eero HOKKANEN, Directeur, Direction générale des services médicaux

Dr. Jarkko ESKOLA, Directeur Adjoint, Ministère des Affaires sociales

Mme Tuuli RAIVIO, Secrétaire des Affaires Internationales

FRANCE

Mme Michèle BARZACH, Ministre délégué chargé de la Santé et de la Famille

M Guy BERGER, Directeur du Cabinet du Ministre

Professeur Denys PELLERIN, Conseiller technique au Cabinet du Ministre

M Philippe CLOUET, Conseiller technique au Cabinet du Ministre

Mlle Pia DAIX, Conseillère technique, chargée de la Communication

M Jacques HUGUES DES ETAGES, Représentant Permanent de la France auprès du Conseil de l'Europe à Strasbourg

Mme BOIVINEAU, Chef de la Direction des conventions judiciaires et de la nationalité au Ministère des Affaires Etrangères

M Bernard Stanislas VIENOT, Directeur des Affaires Juridiques au Ministère des Affaires Etrangères

Professeur Jean-François GIRARD, Directeur Général de la Santé
Ministère des Affaires Sociales et de l'Emploi

Mlle Nicole LAFAY, Chef du Bureau des techniques médicales, Direction Générale de la Santé

M Jean-Louis CARTIER, Chef de la Division des Relations Internationales, Ministère des Affaires Sociales et de l'Emploi

Mme Agnès LECLERC, Responsable du Secteur "Affaires Européennes"
Division des Relations Internationales, Ministère des Affaires Sociales et de l'Emploi

Mme Danièle BEGASSE, Attachée à l'Administration centrale,
Ministère des Affaires Sociales et de l'Emploi

Professeur DUBERNARD, Chef du Service d'Urologie et de Chirurgie de la Transplantation, Hôpital Edouard Herriot, Lyon

Professeur Henri KREIS, Président de la Commission nationale d'hémodyalise et de transplantation, Hôpital Necker, Paris

REPUBLIQUE FEDERALE D'ALLEMAGNE/FEDERAL REPUBLIC OF GERMANY

Mme le Professeur Rita SUSSMUTH, Ministre fédéral de la Jeunesse, de la Famille, des Femmes et de la Santé

Professeur Dr. M STINBACH, Ministerialdirektor

Mr H VOIGTLAENDER, Ministerialrat

Mr H L JELEN, Ministerialrat

Mme R GOERNER, Assistante personnelle du Ministre

Dr. A J FURSCH, Expert en dialyse, Deutsche Stiftung, Organtransplantation

GRECE/GREECE

Mr Yannis FLOROS, Ministre de la Santé (excusé)

IRLANDE/IRELAND

Dr. Rory O'HANLON T D, Minister for Health

Dr. A WALSH, Chief Medical Officer, Department of Health

Mr Denis CRONIN, Principal Officer, Department of Health

Mr Brendan PHELAN, Principal Officer, Department of Health

ITALIE/ITALY

Mme Elena MARINUCCI, Sous-Secrétaire d'Etat

Professeur Francesco POLIZZI, Directeur Général des Hôpitaux, Ministère de la Santé

Professeur Marino COLOMBINI, Chef des Relations internationales, Ministère de la Santé

Professeur Luigi DONATO, Directeur de l'Institut de Physiologie de la Clinique du Conseil National des Recherches

LIECHTENSTEIN

Mr Leonhard VOGT, Secrétaire Général, Conseiller du Gouvernement

LUXEMBOURG

M Benny BERG, Ministre de la Santé

M Marcel REIMEN, Conseiller de Gouvernement, Ministère de la Santé

Dr. Danièle HANSEN-KOENIG, Directeur Adjoint de la Santé

MALTE/MALTA

Dr. A Borg Olivier de PUGET, Ambassador of Malta in Paris

Dr. Alfred GRECH, Special Adviser to the Ministry of Health

PAYS BAS/NETHERLANDS

Mr Dirk Jan Dignus DEES, Secretary of State for Welfare, Health and Cultural Affairs

Professor Dr. H ROSCAM ABBING, Ministry of Welfare, Health and Cultural Affairs

Dr. G PERSIJN, Med. Adj. Director, Eurotransplant Foundation

Mrs J G M AARTSEN, Ministry of Welfare, Health and Cultural Affairs

Mr H DE MAN, Deputy Head, International Health Affairs Division

NORVEGE/NORWAY

Mme Tove Strand GERHARDSEN, Minister of Health and Social Affairs

M Alf Einar JACOBSEN, Personal Secretary to the Minister

Mrs Ingeborg WEBSTER, Deputy Director General, Ministry of Health and Social Affairs

Dr. Jorgen JONSBU, Assistant Director General, Directorate of Public Health

Dr. Øyvin AARFLOT, Senior Medical Officer, Directorate of Public Health

PORTUGAL

Mme Maria Leonor BELEZA, Ministre de la Santé

M Manuel LEMOS, Chef du Cabinet du Ministre

Dr. Gaetano PEREIRA, Directeur du Service de chirurgie vasculaire de l'Hôpital San Antonio, Porto

M Cabrita MATIAS, Responsable des relations internationales
Département d'Etudes et de Planification, Ministère de la Santé

ESPAGNE/SPAIN

Dr. Carlos HERNANDEZ GIL, Sous-Secrétaire, Ministère de la Santé et de la Consommation

Dr. Alberto INFANTE CAMPOS, Sous-Directeur Général des relations internationales, Ministère de la Santé et de la Consommation

Dr. Miguel Angel ZAMARRON, Coordonnateur national des transplantations, Ministère de la Santé et de la Consommation

Dr. Joaquim Marquez MONTES, Sous-Directeur Général de la technologie et de la planification sanitaire

SUEDE/SWEDEN

Mrs Gertrud SIGURDSEN, Minister of Health and Social Affairs

Mr Lars HULTSTRAND, Assistant Under-Secretary

Mr Anders LONNBERG, Political Adviser

Mrs Lena JONSSON, Head of Section

Dr. L RINDER, Medical Director, National Board of Health and Welfare

SUISSE/SWITZERLAND

M Philippe PIDOUX, Conseiller d'Etat, Chef du Département de l'Intérieur et de la Santé Publique du Canton de Vaud

Professeur R MEGEVAND, Hôpital cantonal universitaire, Département de Chirurgie

Mme Stéphanie ZOBRIST, Adjointe scientifique, Office fédéral de la Santé publique

M René JUNOD, Premier Secrétaire, Ambassade de Suisse à Paris

TURQUIE/TURKEY

M Cenk DUATEPE, Premier conseiller d'Ambassade, Ambassade de Turquie à Paris

M Ali MURAT BORA, Deuxième Conseiller d'Ambassade

ROYAUME-UNI/UNITED KINGDOM

Mrs Edwina CURRIE, Parliamentary Under-Secretary of State, Department of Health and Social Security

Miss Patricia M C WINTERTON, Assistant Secretary, Department of Health and Social Security

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ASSEMBLEE PARLEMENTAIRE DU CONSEIL DE L'EUROPE/
PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Mrs MORF, Président, Commission des questions sociales et de la Santé (Suisse)

Mrs HAMMARBACKEN, Député (Suède)

M MARTINO, député (Italie)

Mr BURGER, député (Luxembourg)

M PALACIOS, député (Espagne)

Sir Dudley SMYTH, député (Royaume-Uni)

Mrs STAELS-DOMPAS, député (Belgique)

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ETATS NON MEMBRES/NON-MEMBER STATES

OBSERVATEURS/OBSERVERS

SAINT SIEGE/HOLY SEE

Mgr. Justin Francis RIGALI, Archevêque, Secrétairerie d'Etat, Rome

Abbé Maurice DOOLEY, Professeur de Théologie morale, Secrétaire de la délégation

Dr. DUBOUST, Hôpital Broussais, Paris

CANADA

M Daniel MOGAT, Ambassadeur, Chef de la mission du Canada auprès des Communautés européennes, Bruxelles (excusé)

Mme Thérèse LAVOIE-ROUX, Ministre de la Santé du Québec

M André SAMSON, Conseiller, Délégation générale du Québec, Bruxelles

Mme Wendy FELDMAN, Deuxième Secrétaire et Vice Consul, Ambassade du Canada à Paris

MONACO

M Denis GASTAUD, Directeur de l'Action sanitaire et sociale

Mme le Dr. Monique LANDY-VERNERET

SAINT MARIN/SAN MARINO

Mr Renzo GHIOTTI, Ministre de la Santé et de la Sécurité Sociale

Mr Pietro GIACOMINI, Director of Social and Economic Affairs
Ministry of Foreign Affairs

Mr Santé CANDUCCI, Co-ordinator of the Medical Board

YUGOSLAVIE/YUGOSLAVIA

M Boris SNUDERL, Ambassadeur

M ILIC-MILIJA, Conseiller pour les Affaires sociales

M Andrijan KASTELAN, Conseiller pour les Affaires sociales

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ORGANISATIONS INTERNATIONALES/INTERNATIONAL ORGANISATIONS

ORGANISATION MONDIALE DE LA SANTE/WORLD HEALTH ORGANISATION

Ms G PINET, Regional Officer for Health Legislation

COMMUNAUTES EUROPEENNES/EUROPEAN COMMUNITIES

COMMISSION

Mr Van VOSSEL, Directorate General of Employment, Social Affairs and Education

SECRETARIAT GENERAL DU CONSEIL DE L'EUROPE/
COUNCIL OF EUROPE SECRETARIAT

M Gaetano ADINOLFI, Secrétaire Général Adjoint

Mme Mireille PAULUS-LEVY, Cabinet du Secrétaire Général

DIRECTION DES AFFAIRES SOCIALES ET ECONOMIQUES/
DIRECTORATE OF SOCIAL AND ECONOMIC AFFAIRS

M John F SMYTH, Directeur des Affaires sociales et économiques

M Henry SCICLUNA, Chef de la Division de la Santé

Mme Véra BOLTHO-MASSARELLI, Administrateur principal, Division de la Santé

GREFFE DE L'ASSEMBLEE PARLEMENTAIRE/
OFFICE OF THE CLERK OF THE PARLIAMENTARY ASSEMBLY

Mr J KLEIJSEN, Commission des Questions sociales et de la Santé

DIRECTION DE LA PRESSE ET DE L'INFORMATION/
DIRECTORATE OF PRESS AND INFORMATION

Mr Jack HANNING, Adjoint au chef de division

Mme Elisabeth ROHMER, Attachée de presse

A P P E N D I X II

FINAL TEXT

The European Ministers of Health, meeting in Paris,

1. Considering that progress in the medical sciences, in particular in the field of organ (1) transplantation, contributes to saving life and improving its quality;

2. Considering that transplantation of organs is one particular but important part of the comprehensive health services offered to European citizens;

3. Considering that the availability of organs for transplantation is increasingly inadequate to meet the needs;

4. Concerned that organ transplantation should take place under conditions that ensure the rights and freedoms of donors, prospective donors and recipients of organs;

5. Taking into account Resolution (78) 29 on the harmonisation of legislation of member states relating to removal, grafting and transplantation of human substances, adopted by the Committee of Ministers of the Council of Europe on 11 May 1978;

6. Unanimously agreed that, in facilitating the transplantation of organs in the interest of patients in Europe, there was a need to:

- protect individual rights and freedoms,
- avoid the commercialisation of organ procurement, exchange and transplantation activities,
- develop an information policy on the significance of organ transplantation, and
- promote European co-operation,

7. Decided to establish the following guidelines for future work in this field:

I. INDIVIDUAL RIGHTS AND FREEDOMS

A. REMOVAL OF ORGANS FROM DECEASED DONORS

1. Removal from a deceased person may not take place against the expressed or presumed will of the person concerned. Member states may decide if and under what conditions, for example with regard to the

(1) In this context "organ" is taken to include skin and bone marrow. It does not include testicles, ovaries, embryos, ova, sperm and blood.

wishes of the deceased's next-of-kin, the removal may be effected in the absence of the expressed will of the deceased. Measures for determining the wishes of the deceased should be introduced by the member states. Where the deceased person was legally incapacitated the consent of his/her legal representative may also be required.

2. A removal may only be effected once death has occurred. The fact of death must be established by at least one doctor in the light of recent scientific knowledge. It is acknowledged that the fact of death can be established on the basis of total and irreversible loss of all brain function.

3. The doctor or doctors establishing the fact of death should not belong to the team which will effect the removal or transplantation. However, when no other qualified person is available, member states may make exception to this rule in the case of minor operations eg cornea.

4. The fact of death (ie the total and irreversible loss of brain function) having been established, the function of some organ or organs may be artificially maintained for the purpose of effecting a removal with a view to transplantation.

5. The identity of the donor must not be disclosed to the recipient nor the identity of the recipient to the family of the donor.

B. REMOVAL OF ORGANS FROM LIVING DONORS

6. The use of organs from living donors should be restricted and, where possible, gradually eliminated.

7. Only regenerative substances of human origin (1) may normally be removed from a living donor.

8. A single kidney may, however, be removed from a genetically or closely related living donor:

- where dialysis or an alternative technique is not feasible and a suitable organ from a deceased donor is not available;
- where the use of organs from living persons is medically far more advantageous than the use of cadaveric organs.

9. A removal may only be effected from an adult who is capable of giving his/her consent freely.

10. No removal should be effected from a legally incapacitated person. In exceptional cases, however, justified on therapeutic grounds in the recipient, a substance which can regenerate may be removed from a legally incapacitated person if his/her legal representative has given consent. If the donor has the capacity of understanding, his/her consent must also be required.

(1) For the purpose of this statement the term "regenerative substances of human origin" includes only skin and bone marrow.

Taking into account the restrictions mentioned in paragraphs 7 and 8, a single kidney may only be removed from a legally incapacitated person where:

- the donor and the recipient are genetically closely related;
- the donor has given his/her consent, provide he/she has the capacity for understanding; and
- his/her legal representative and an appropriate authority have authorised removal.

11. The donor and, in the case of a legally incapacitated person, his or her legal representative as well, should be given appropriate information before the removal about its possible consequences, in particular the medical, social and psychological effects, as well as about the implications of the donation for the recipient.

12. Organs should only be removed under conditions representing the least possible risk to the donor. Before the removal and transplantation, appropriate medical examinations should be made so as to be able to evaluate and reduce the risks to the health and life of both donor and recipient.

13. The removal of organs must not be performed where it presents a significant and foreseeable risk to the life, health or functioning of the donor.

14. The anonymity of the donor and of the recipient should be respected.

15. In the exceptional case where a functional organ or part of it has to be removed for therapeutic reasons, this organ may be used for transplantation purposes provided that the donating patient agrees.

II. THE NON-COMMERCIALISATION OF HUMAN ORGANS

16. A human organ must not be offered for profit by any organ exchange organisation, organ banking centre or by any other organisation or individual whatsoever. However, this does not prevent the compensation of living donors for loss of earnings and any expenses caused by the removal or preceding examination.

17. Neither organisations nor individuals should advertise outside their national territory either for donation or transplantation.

III. CRITERIA FOR USE OF ORGANS

18. Organs available should be used rationally and waste of organs resulting from the ability to find the right recipient should be avoided. An organ should, moreover, be used where there is the maximum prospect of success, and solely on the basis of medical criteria. The doctor should be prepared to justify his selection.

IV. INSTITUTIONS EFFECTING REMOVAL AND TRANSPLANTATION OF ORGANS

19. The necessary controls should be exercised to ensure that removals and transplantations take place in officially recognised institutions having adequately trained and experienced staff and proper equipment.

V. INFORMATION POLICY

20. Member states should take measures to better inform the public about the significance of organ transplantation in the saving and enhancing of lives and should enlist the co-operation of all health professionals in this effort. Information programmes should take into account and encourage European co-operation.

21. For this purpose the compilation of information material relating to organ donation and transplantation should be promoted to help regional and other organisations in the planning, co-ordination and development of efforts in this field.

VI. ORGANISATIONAL MEASURES FOR THE PROMOTION OF EUROPEAN CO-OPERATION

22. As mentioned in paragraph 18, organs available should be used rationally and waste of organs resulting from the inability to find the right recipient should be avoided. Therefore, whenever feasible, organs which, on the basis of medical criteria, cannot be used successfully in the donor's country, should be made available, on the basis of the same criteria, to patients of other countries, preferably through European exchange organisations on a strictly non-commercial basis.

23. For this purpose, member states should:

- initiate or improve co-operation and co-ordination of the efforts of organisations engaged in organ procurement activities;
- facilitate links between the exchange organisations;
- further harmonisation of the criteria for the registration of patients on waiting lists;
- circulate national waiting lists for at least the more disadvantaged patient groups;
- facilitate the safe and speedy transport of donated organs, according them maximum priority;
- ensure international air transport arrangements at minimum cost;
- set up a common system of certification for the transport of donated organs;
- exempt organs and their containers from all duties and taxes relating to importation and exportation.

24. Member states should ensure the proper training of removal and transplantation teams, promote research in the field of organ transplantation and encourage bilateral exchanges between members of transplant teams for the purposes of training and research.

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25. The conference accordingly recommends that the Council of Europe takes the appropriate steps:

- to examine specific problems, including financial ones, relating to organ procurement and exchange at the European level;
- to revise existing instruments and draw up new ones to implement the principles set out in this text.