

**2011/2193(INI)**

26.4.2012

## **OPINION**

of the Committee on Legal Affairs

for the Committee on the Environment, Public Health and Food Safety

on voluntary and unpaid donation of tissues and cells  
(2011/2193(INI))

Rapporteur: Jiří Maštálka

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## SUGGESTIONS

The Committee on Legal Affairs calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. whereas Member States have largely given effect to the ethical principle laid down in Directive 2004/23/EC whereby donations of tissues and cells should be unpaid and voluntary;
- B. whereas Article 3(2)(c) of the Charter of Fundamental Rights of the European Union contains a prohibition on making the human body and its parts as such a source of financial gain;
- C. whereas it would be desirable for all Member States to have binding rules to enforce that ethical principle, including by means of criminal law;
- D. whereas, however, doubts remain concerning the compatibility with this ethical principle of certain kinds of compensation provided in connection with donations, particularly when such compensation is provided to the relatives of deceased donors;
- E. whereas it is also of the utmost ethical importance to ensure, in so far as possible, an adequate supply of tissues and cells needed for medical purposes; whereas that supply must be managed in the interest of citizens and should therefore be supervised by public bodies;
- F. whereas voluntary and unpaid tissue and cell donations contribute to high safety standards for tissues and cells and therefore to the protection of human health;
- G. whereas the debate on presumed consent for post-mortem donations should be pursued further;
  - 1. Calls on the Member States to lay down binding rules, where they have not already done so, to enforce the ethical principle that donations of tissues and cells should be unpaid and voluntary;
  - 2. Stresses that any commercialisation of human tissue and cells violates the principles of equity and respect for human rights and undermines the ethics of altruistic donation;
  - 3. Calls on the Member States to ensure that any compensation provided to donors is compatible with ethical principles; advises that particular attention should be paid to this issue where the compensation is given not to the donor, but to the donor's family after death;
  - 4. Considers that, in order to pursue the ethical imperative of ensuring adequate supply, the Commission and the Member States should consider the possibility of setting up a Europe-wide database of donors and potential recipients in order to manage supply in the general interest and avoid shortages where possible;

5. Considers that such a database could also usefully contain details on a potential voluntary donor's consent or otherwise to organ donations in the event of death, including his or her willingness to donate organs outside of the territory of their home Member State, as donor databases are currently organised at national level, which means that information is often not available in relation to citizens who have moved to another Member State;
6. Calls on the Member States and the Commission to pursue the option of extending the principle that deceased potential donors are presumed to consent to donation provided that they have not stated otherwise during their lifetime; calls, nevertheless, on the Member States to actively promote, regardless of their national systems, the concept of the declaration of consent, as such a declaration is undeniable proof of a potential donor's decision;
7. Calls on the Commission and the Member States to raise awareness among European citizens of the capacity of voluntary and unpaid tissue and cell donation to address the gap between demand and supply more effectively;

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	26.4.2012
<b>Result of final vote</b>	+: 24 -: 0 0: 0
<b>Members present for the final vote</b>	Raffaele Baldassarre, Sebastian Valentin Bodu, Françoise Castex, Christian Engström, Marielle Gallo, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Sajjad Karim, Antonio López-Istúriz White, Jiří Maštálka, Bernhard Rapkay, Evelyn Regner, Francesco Enrico Speroni, Dimitar Stoyanov, Rebecca Taylor, Alexandra Thein, Cecilia Wikström, Tadeusz Zwiefka
<b>Substitute(s) present for the final vote</b>	Piotr Borys, Sergio Gaetano Cofferati, Vytautas Landsbergis, Eva Lichtenberger, Axel Voss
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Karin Kadenbach