

Abstract: The Human Organ Transplantation Act – moral and ethical problems of its application

This thesis deals with issues related to the applications of the Human Organ Transplantation Act. It is focused on the assessment of existing legislation regarding transplantation, the identification of problematical areas of transplantation law and the possibility of their correction. The thesis is divided into several parts. At the beginning it deals with the history and development of transplant medicine. It also contains a description of the current legislation and a brief summary of an international regulation. The main focus of the thesis is to analyze the deficiencies in Czech legislation and to emphasize the interdisciplinary nature of the transplant law. Finally, it analyzes the forthcoming amendment to The Human Organ Transplantation Act prepared by the Ministry of Health.

The Human Organ Transplantation Act is a modern legislation respecting international commitments of the Czech Republic. Nature of the transplant legislation is given by its fundamental aspects – the principle of presumed consent in connection with legally provided guarantee to respect disagreement expressed in accordance with law, the preference of a deceased donor prior to a living one, the principle of fairness in the allocation of human organs to the waiting patients, the observance of the principle of respect when dealing with a dead body and the strict prohibition of a financial gain.

Among the main difficulties that the Czech transplant law has to encounter we shall include an imbalance of the arrangement of organ harvesting from deceased foreigners, a very unsatisfactory level of public awareness, both professional and amateur, an origination of an ethical conflict situation in the case of refusal of organ harvesting by the family of the deceased donor, a lack of financial security for the Czech transplant program, and finally a disproportion between the producer and the processor participating on the financial benefits of biological material.

The thesis examines possible solutions to some deficiencies proposed in the amendment to the Human Organ Transplantation Act and points out some others that remain unsolved. It deeply addresses the eligibility of the refusal of organ harvesting from the deceased donor by bereaved relatives and the possibility of legal liability of health care workers for not performing organ harvest on the deceased. It recommends modifications of

certain provisions of the current legislation and emphasizes a need to work actively to increase public awareness of fundamental aspects of the Czech transplant law.