

PRESS RELEASE

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Between self-disposal and solidarity: Ethics Council debated the regulation of objections to organ donation

On 28.11.2018, an orientation debate took place in the German Bundestag on whether an objection regulation should be established in future instead of the decision regulation in order to improve the desolate situation of organ donation. Decreasing donor numbers and long waiting lists are giving rise to calls for fundamentally different procedures. But what ethical challenges arise from the possible new regulations for patients, relatives, medical staff and future donors? Yesterday, Wednesday, the German Ethics Council discussed the pros and cons of the objection regulation for organ donation at a public evening event attended by several members of the Bundestag.

In his welcoming address, Peter Dabrock, Chairman of the German Ethics Council, emphasized the importance of the current debate, but also reminded that most of the opponents share a common goal: to increase the number of organ donations.

Council members Reinhard Merkel and Wolfram Höfling then discussed the different legal interpretations of the opposition model. For Reinhard Merkel, organ donation represents an individual act of postmortem solidarity with an unknown other. No one could be forced to do so by law. But the coercion to make a declaration during one's lifetime is permissible in a legal system that knows clearly more weighty commandments of compulsory law to solidarity, to save human lives without further ado and makes sense in terms of legal ethics.

Wolfram Höfling, on the other hand, argued that the common justification of an objection model in the law of organ acquisition fails to recognize that every decision on organ donation is an existential decision on one's own death. The opposition regulation unlawfully restricts the fundamental right to life and physical integrity. Höfling proposes to subject the German transplantation system as a whole to a reorganisation based on the rule of law instead of a statutory regulation.

In the second part of the debate, Council members Wolfram Henn and Claudia Wiesemann discussed questions of medical ethics and the practical implementation of the objection regulation. For Wolfram Henn, the right of veto for relatives in the age of mature citizens does not constitute an encroachment on the right to self-determination. In the weighing of goods against the life chances of seriously ill people, it is rather ethically necessary to evaluate a renunciation of rejection as acceptance. At the same time, Henn stressed that this requires an environment of balanced information and low-threshold, accessible and at the same time binding information.

Members

Prof. Dr. theol. Peter Dabrock (Chair)
 Prof. Dr. med. Katrin Amunts (Vice-Chair)
 Prof. Dr. iur. Dr. h. c. Volker Lipp (Vice-Chair)
 Prof. Dr. med. Claudia Wiesemann (Vice-Chair)
 Constanze Angerer
 Prof. Dr. iur. Steffen Augsberg
 Prof. Dr. theol. Franz-Josef Bormann
 Prof. Dr. med. Alena M. Buyx
 Prof. em. Dr. iur. Dr. h. c. Dagmar Coester-Waltjen
 Dr. med. Christiane Fischer
 Prof. em. Dr. phil. habil. Dr. phil. h. c. lic. phil. Carl Friedrich Gethmann
 Prof. Dr. theol. Elisabeth Gräß-Schmidt
 Prof. Dr. rer. nat. Dr. phil. Sigrid Graumann
 Prof. Dr. med. Wolfram Henn
 Prof. Dr. iur. Wolfram Höfling
 Prof. Dr. (TR) Dr. phil. et med. habil. İlhan İlkilic
 Prof. Dr. rer. nat. Ursula Klingmüller
 Stephan Kruip
 Prof. Dr. phil. Dr. h. c. Dipl.-Psych. Andreas Kruse
 Prof. Dr. phil. Adelheid Kuhlmei
 Prof. Dr. med. Leo Latausch
 Prof. Dr. theol. Andreas Lob-Hüdepohl
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Claudia Wiesemann replied that there was no donation problem, but a reporting and organisation problem of the hospitals. The planned introduction of the objection regulation would locate the problem incorrectly and contribute to concealing the ethical internal conflicts in the collection hospitals. Doctors and nurses involved in the identification of potential donors and the removal of organs are confronted with moral obligations that contradict each other. These organizational ethical conflicts must be recognized and resolved.

In the concluding panel discussion, moderated by Council member Alena Buyx and also open to the audience, there was agreement that the structural problems of organ donation urgently needed to be solved, despite the different positions on the introduction of the objection regulation. This would require sufficient information and active involvement of the persons concerned. In his closing remarks, Peter Dabrock appealed to the German Bundestag to seek viable compromises in view of the common goal and to find concrete political solutions in the ongoing parliamentary debate.

The presentations and documentation of the event can be found under: <https://www.ethikrat.org/forum-bioethik/pro-contra-widerspruchsregelung-bei-der-organspende>.