

## **Rules for deceased organ transplantation of individuals from a Non-Scandiatransplant member country performed within Scandiatransplant, and the use of organs from such countries for Scandiatransplant recipients**

Organ trade and transplant tourism is internationally regarded as a grave criminal offense. While principles of humanitarian duty hold that all individuals, regardless of citizenship or nationality, have an equal claim to receive necessary medical treatment. Organs for transplant cannot automatically be defined to fall within this category. This is because the availability of human organs requires organ donations in the general population, and because the number of human organs available for transplant is very limited, with the consequence that each decision to transplant a recipient is also a decision not to transplant an alternative recipient in the eligible population. The social contract and principles of distributive justice within a society therefore dictate that each nation is responsible for providing transplantation for its own citizens. Several international legal instruments corroborate this. Key among them is the World Health Organization's Guiding Principles on Human Cell, Tissue, and Organ Transplantation, which encourages member states to ensure transparency, fairness, and traceability in organ procurement and transplantation<sup>1</sup> and the Declaration of Istanbul on Organ Trafficking and Transplant Tourism<sup>2</sup>. Correspondingly, while the European Union (EU) does assure the individual rights of cross-border healthcare within the EU, point 15 of EU Directive 2011/24 on the application of patients' rights in cross-border healthcare states: "Given their specificity, access to and the allocation of organs for the purpose of organ transplants should fall outside the scope of this Directive."<sup>3</sup>

In adherence to these principles, and in acknowledgement of the obligation to work against organ trafficking and transplant tourism, Scandiatransplant asserts the following rules:

- 1) Individuals from non-Scandiatransplant member countries who have the same entitlement as national subjects of a member country to receive treatment under the public health care system are eligible for organ transplantation within Scandiatransplant.
- 2) Individuals from non-Scandiatransplant member countries without such entitlement cannot claim eligibility for organ transplantation within Scandiatransplant.
- 3) All Scandiatransplant activities should adhere to the Declaration of Istanbul<sup>2</sup> and must not give rise to any doubts or assumptions regarding organ trade or transplant tourism.
- 4) Scandiatransplant member hospitals can establish cooperation agreements that include the transplantation of individuals from non-Scandiatransplant member countries and allow the use of organs from such countries. These agreements must adhere to the following provisions:
  - a) They should only be made with transplant units that are part of the country's official health care system. The ethical propriety of organ procurement and allocation in that country must be ensured and must correspond the standard in the current Scandiatransplant countries.

- b) They should include training and education to promote high-quality organ transplantation programs. Written plans and documented progress of such training and education should be presented.
  - c) They should aim to achieve a balance between the number of organs made available to Scandiatransplant and the number of organs requested for transplantation by patients from the organization in question.
  - d) They should not disadvantage patients in current Scandiatransplant countries.
  - e) They should ensure that patients from non-Scandiatransplant member countries covered by these agreements are selected for transplantation based on similar principals applied to Scandiatransplant patients.
  - f) They must not involve any payment for organs.<sup>4</sup>
- 5) They should be presented to and approved by the Scandiatransplant Board. Scandiatransplant rules cannot override the legislation of any Scandiatransplant member country.
- 6) Violations of these rules must be reported to the Scandiatransplant Office and must be presented to the Scandiatransplant Board. The Board must initiate the necessary inquiry with an analysis of the medical and ethical circumstances. A written report with suggested action where appropriate should be presented to the Scandiatransplant Council.

## References

- 1 <https://www.edqm.eu/documents/52006/286852/WHO+guiding+principles+on+human+cell%2C+tissue+and+organ+transplantation%2C+as+endorsed+by+the+63rd+WHA%2C+May+2010%2C+Resolution+WHA63.22.pdf/623474ce-1823-ea00-8462-51a144c6a791>
- 2 <https://www.declarationofistanbul.org>  
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- 3 <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:088:0045:0065:en:PDF>  
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- 4 This implies that such collaborations could only be made with countries having a comprehensive public health care system with a minimal degree of self-payment, similar to the health care systems in the current Scandiatransplant countries. This must also include costs for medical and other necessary follow up after transplantation.

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The Board of Scandiatransplant