

LEGA NAZIONALE CONTRO LA PREDAZIONE DI ORGANI E LA MORTE A CUORE BATTENTE

24121 BERGAMO Pass. Canonici Lateranensi, 22

Tel. 035-219255 - Telefax 035-235660

lega.nazionale@antipredazione.org

www.antipredazione.org

since 1985

PRESS RELEASE

YEAR XXIII - n. 4

11th May 2007

Illegal explants and transplants APPEAL TO THE TAR (Regional Administrative Tribunal) IN ROME ABOUT THE APPLICATION OF LAW 91/99 ARTICLES 4 -5 *Declaration of will regarding organ and tissue 'donation'*

A law was passed in 1999 but it has not been enforced. The law was passed against the will of the majority of Italian citizens but it has not been enforced. The transplanting organizations split the funding amongst themselves but the Decree about "provisions for the implementation of the rules regarding the declaration of will" was left out.

The Decree foreseen by article 5 of the law has not yet been issued. As a result conduct which is inconsistent with the law and fraud at the expense of citizens is continually taking place.

On the contrary Health minister Bindi issued a **provisional Decree, contra legem, called 8th April 2000 Decree** (which overlaps another Temporary Regulation provided for in the law -article23-); **this has enabled the defaulting health ministers** who have been in power from '99 to the present (Bindi, Veronesi, Sirchia, Storace, Turco) to open the floodgates on a succession of misrepresentations disguised as law:

- 1) The blue card issued by Bindi which was concocted to protect transplant surgeons and gives scope for easy infringements in hospitals;
- 2) Forms available at the Asl (local health service), hospitals, doctors' surgeries, where citizens have to cross the "YES" or "NO" box. A footnote of these forms gives authorization by rule of law and by decree 08/04/00, which nobody knows about, to catalogue the matter with no guarantees. The crossed boxes are then sent to the **National Transplant Centre (CNT)**, from which there is no escape;
- 3) On its web site the National Transplant Centre adds that "any kind of written note which contains surname, date of birth, declaration of will (positive or negative), identity card number, date and signature is considered to be a valid declaration";
- 4) Patient Association Cards and proexplant/transplant association cards. These are associations which have always benefited from state protection and funding. They do not tell their members about the automatic inclusion in the CNT data base, which is a point of no return;
- 5) On-line cards where a computerized "YES" allows anyone to donate anyone without their knowledge on a web site set up by the most well-known associations for the harvesting of organs under the protection of the Health Ministry and the CNT;
- 6) The proposal of a card with "YES" as the only option by some Regional Transplant Centres;
- 7) A regional health card (with a magnetic strip) where there will be a section to declare will regarding explants and transplants;
- 8) A municipal donor card released with identity cards at the registry office in some towns, the work of incompetent and irresponsible mayors in search of notoriety;
- 9) Ex Minister Veronesi's living "will form" which includes unclear declarations about organ donation which puts the signatory completely in the doctor's hands.

All of this is aimed to make explants easier because **when a donor card is found in a person's pocket (and it could have been put there by anyone) the family can no longer raise objections.**

Many infringements are taking place in hospitals due to this deliberate liberalization: a mother is denied visitation to her son who is in a coma unless she signs for “organ donation” first; the family have to turn to a magistrate to stop the explant; relatives are coerced to sign for illegal donations; doctors try to take apart the objections of families by telling them that they will go ahead and carry out a beating heart autopsy (which is illegal).

Impartial information is not available and at the same time we are flooded with propaganda, slogans, public activities, thematic weeks and the **government day on 13 May** which favours transplant fanatics. The fact is that many citizens still don't know that explants are carried out on patients with a beating heart and whose blood is circulating after a quick and enforced declaration of “brain death”.

The national press keeps agreeing with misinformation using equivocal and false terms such as donation “after-death” and “from a corpse” to mislead people into thinking that the “donation” takes place after cardio-circulatory arrest. The press censors the opposition to avoid crossing the government.

Propaganda in Primary and middle schools is illicitly increasing which is detrimental to children who are dragged into pro-death/transplant projects (compositions, performances and films) and this has resulted in well-known cases of children who have committed suicide in order to donate their organs.

Even though the long-overdue (8 years) decree has not yet been issued, public institutions have been set in motion thus demonstrating that they are power structures against the citizens.

The *Lega Nazionale Contro la Predazione di Organi e la Morte a Cuore Battente* has taken legal steps to restore legality and the few rights guaranteed to non-donors by articles 4 and 5 of L. 91/99.

On 10/03/04 the Lega Nazionale sent a **warning** to the General Directors of **115 Asl (local health authorities)** on account of the public cataloguing which is taking place before the issue of the decree required for L.91/99 article 5.

On 23/01/06 (acceptance 30/01/06) the Lega Nazionale **sent a warning to the Minister of Health**, underlining the urgency of correcting the present chaotic situation by implementing the rules and regulations described in article 4 and 5 of L.91/99. The Minister neither responded to the Lega Nazionale nor issued the decree so Avv. Claudio Linzola of the jurisdiction of the Milan Courts, on behalf of the *Lega Nazionale*, asked the Judicial Authorities to assess the silence-non fulfilment and tell the Minister to take action.

A person who is considered to be “brain dead” is actually still alive as international debate on this definition of death confirms. Since the “brain death” declaration is the technical prerequisite for explants/transplants, the opinions of those opposed to the transfer of organs from people who object to “brain death” and to the torture of explants be it for scientific, ethical and philosophical reasons should be respected. Even though we cannot agree with the opt-out principal, a rigid application of the law is necessary to guarantee that one's choices will be respected.

The appeal to the Administrative Tribunal in Lazio was necessary and well-founded. It was presented in February and Represented in April and it will soon result in a decisive hearing, unless the rights of citizens are overridden once again by political-economic power.

CONSIGLIO DIRETTIVO

President

Nerina Negrello

