

Turkish Laws # 2238 on the Harvesting, Storage, Grafting, and Transplantation of Organs and Tissues (June 3, 1979)

LAW No: 2238

CHAPTER 1: General Provisions

Article 1: The harvesting, storage, grafting, and transplantation of organ and tissues for treatment, diagnostic and scientific purposes are subject to the provisions of this law.

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Article 2: Through the term “Organ and Tissue” mentioned in this law is understood to be all the organs and tissues and parts thereof forming the human organism.

Autografts, and harvesting, grafting transplantation of hair, skin, and blood transfusions are not subject to the provisions of this law, and are affected under the health laws, regulations, instructions and medical deontology rules of existence.

Article 3: Buying and selling of organs and tissues against a monetary amount or another interest are forbidden.

Article 4: Except for the distribution of information having scientific, statistical and new characteristics, all advertisement in connection with the harvesting and donation of organs and tissues is forbidden.

CHAPTER 2: Harvesting of Organs and Tissue from Living Persons

AGE AND QUALIFICATIONS

Article 5: Harvesting organs and tissues from persons under the age of 18 or from persons who are not sound of mind is forbidden.

CONSENT

Article 6: The consent for harvesting an organ must be obtained from a person/persons over 18 years of age and of sound mind verbally and in writing before at least two witnesses and approved by a physician.

OBLIGATION TO PROVIDE INFORMATION AND INVESTIGATE

Article 7: Physicians harvesting organs and tissues must:

- a. inform the donor about the risk involved, the medical, psychological, domestic and social outcomes thereof in a suitable and detailed manner;
- b. inform the donor regarding the advantages the donor shall provide the recipient;

- c. refuse harvesting the organs and tissues of persons mentally and psychologically handicapped;
- d. investigate whether or not the donor is married, and whether the spouse is aware of the donor's decision of donating his/her organs and tissues, and record the information;
- e. forbid and refuse the harvesting of organs and tissue donated for a monetary amount or any other interest than in the name of humanity;
- f. not reveal the donor's identity, with exception of blood and those who are related to the recipient by marriage or close personal relationships.

INSTANCES WHERE ORGAN AND TISSUE CANNOT BE HARVESTED

Article 8: Harvesting of organ and tissue which in any way shall endanger or terminate the donor's life is forbidden.

THE NECESSITY OF MEDICAL TESTS AND STUDIES

Article 9: In order to diminish the risk which may endanger the life and health of the donor and recipient, it is necessary to carry out a medical study consisting of laboratory tests, examinations, etc., before harvesting and transplanting organs and tissues, as substantiated by a written report suitable for surgery.

HEALTH ORGANIZATIONS AUTHORIZED TO HARVEST, STORE GRAFT AND TRANSPLANT ORGANS AND TISSUES

Article 10: Health organizations authorized to harvest, store, and graft organs and tissues must provide the specially-trained personnel, instruments and materials necessary for the above purposes.

CHAPTER 3: Harvesting Organs and Tissue from Cadavers

Establishing the cause of death:

Article 11: In connection with enforcement of this law, the case of medical death is established unanimously by a committee of 4 physicians consisting of 1 cardiologist, 1 neurologist, 1 neurosurgeon, and 1 anesthesiologist, according to the rules, methods, and practices equivalent to the level of science reached in the country.

BANNED PROCESSES CONCERNING PHYSICIANS

Article 12: The physicians who will perform the transplant surgery cannot be among the group which pronounced the donor as dead (Article 11)

ISSUING PROTOCOL

Article 13: The physicians having established the case of death in accordance with Article 11 should issue a protocol stating the date and the hour of death and the cause of

death bearing their signatures, and submit this to the health organization where the organ and tissues were harvested. This protocol and its enclosures will be kept at the aforementioned organization for a period of ten (10) years.

Article 14: Amended through Law 2594, dated 21/1/1982. The amendment is as follows:

ADDENDUM

The law on proposition of the 14th Article of the Law #2238 on the harvesting, storage, grafting and transplantation of organs and tissues, and the amendment of its last paragraph and addition of a new paragraph to this article.

Turkish Laws # 2594 **Date of Acceptance:21/01/1982**

Article 1: The proposition and fourth paragraph of the 14th Article of the Law Number 2238, dated 25/09/1379, on the harvesting, storage, grafting and transplantation of organs and tissues have been changed as follows and the following fifth paragraph has been added after this paragraph.

**REGULATIONS CONCERNING THE HARVESTING OR ORGANS AND TISSUE FROM
CADAVERS AND THEIR STORAGE FOR MEDICAL RESEARCH**

In the case of the aforesaid persons, where the next of kin do not exist or cannot be located, and the termination of life has taken place as a result of accident or natural death, provided that the reason for the death is not in any way related to the reason for harvesting and according to the conditions stated in Article 11, **THE SUITABLE ORGANS AND TISSUES CAN BE TRANSPLANTED INTO PERSONS WHOSE LIVES DEPEND ON THIS PROCEDURE WITHOUT PERMISSION FROM THE NEXT OF KIN.**

In such cases, judicial post mortem examination is made following the surgical processes and the report of the examination committee of physicians is recorded in the protocol for judicial examination and added to the documents thereof.

Further, those making testaments for their bodies to be donated to scientific research, and those who expire while in a medical facility and are brought to the morgues of such institutions, can be used for scientific research if claim is not made by family or next of kin within six (6) months of the date of death, provided that the person was not in any way a subject of judicial prosecution, unless otherwise stated in their will. The subject of funeral arrangements and burial in such cases is determined by the Ministries of Justice, Domestic Affairs, and Health and Social Welfare through the regulations to be made public within three (3) months of the declaration of this Law.

Article 2: This Law becomes effective on the date of its announcement.

Article 3: the provisions of this Law are governed by the Council of Ministers.
26/01/1382

CHAPTER 4: PENAL PROVISIONS: Banned Actions

Article 15- Those harvesting, storing, grafting and transplanting organs and tissues in a manner not conforming to this law, and those intermediating in such actions as the buying and selling of organs and tissues and those brokering same, in the case that it does not require any heavier punishment, shall be sentenced to punishment of two (2) to four (4) years, and of 50,000 to 100,000 Turkish Lira.

Article 16: This Law comes into force on the date of its announcement.

Article 17: This Law is governed and enforced by the Council of Ministers. 02/06/1379.