Patient’s last wish: organ donation after euthanasia. What conditions should be met to fulfill it?

S. Marinelli1, L. De Paola2, G. Montanari Vergallo2

1School of Law, Polytechnic University of Marche, Ancona, Italy; 2Department of Anatomical, Histological, Forensic and Orthopedic Sciences, Sapienza University of Rome, Rome, Italy

Abstract

Organ donation after euthanasia (ODE) is a complex procedure involving the patient, the family, and the medical staff. Most organ donations occur from patients declared brain dead, and healthcare professionals rely on surrogate decisions, or the possible expression of ante-mortem will. Organ donation from deceased individuals is thus feasible under rigorous conditions, while direct donation after euthanasia is not possible. The scientific community has not reached a shared conclusion. It is also difficult to quantify the number of patients who would be medically eligible to donate organs after euthanasia. In keeping with the core principle of self-determination, any decision to undergo euthanasia (with or without organ donation) must be voluntary and not influenced by external pressures. For this reason, the physician should avoid informing the patient about the possibility of donating their organs before their request for euthanasia is evaluated. Just as noteworthy is the issue of healthcare providers’ conscientious objection and the receiving patient’s right to know whether the transplanted organs come from a subject who underwent euthanasia. Finally, the patient who requests to end their life does so primarily because they are tormented by unbearable suffering and often expresses, as a last wish, the desire to exercise their free will regarding their own body. Organ donation after euthanasia would therefore seem to reinforce patient autonomy and self-esteem, thus giving a different meaning to their inevitable death, which is useful in saving the lives of others. Clin Ter 2024; 175 (3):176-180 doi: 10.7417/CT.2024.5059

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Introduction

End-of-life issues are highly divisive and have a significant impact on public opinion because it encompasses issues of health, ethics, law, emotions, and psychology. In Europe, only 6 countries (Netherlands, Belgium, Luxembourg, Austria, Portugal, and Spain) have regulated euthanasia practices (1). Other nations are discussing it, including Italy where the Constitutional Court, following the well-known Cappato case (2), has set forth - in the absence of specific legislation - the conditions for accessing such practices. It is interesting to note that the World Medical Association considers both euthanasia and medically assisted suicide in conflict with the fundamental ethical principles of medical practice. For this reason, it has condemned both practices and urged all medical associations and physicians to refrain from participating in them, even if national law permits or decriminalizes them (3-5). In addition to the issue of assisted suicide and euthanasia, in the 1980s, the end-of-life topic was enriched with another aspect: the possibility for a patient who meets the criteria for euthanasia procedures to donate organs to allow transplantation in patients on waiting lists. Euthanasia and transplantation, until a few decades ago, remained distinct, both from a bioethical-legal and a medical-scientific point of view because it was difficult to reconcile the two issues. In fact, the choice to procure death to avoid prolonged suffering seemed based on selfish motives, while the decision to have organs removed for transplantation to other patients demonstrated an altruistic spirit.

So, it seemed unusual that a request for euthanasia could come from an organ donor. Today, however, the debate has shown that these are closely intertwined issues, especially in countries where euthanasia legislation is already in place (6). Nevertheless, the scientific community, despite extensively exploring the euthanasia-organ donation issue, has not reached a consensus. Some scholars, opposed to any euthanasia practices, do not accept organ donation after euthanasia because the altruistic spirit of donation alone is not sufficient to make morally acceptable practices considered inherently immoral such as euthanasia and assisted suicide (7). According to others, organ donation after death would be justified by an altruistic choice because it would help alleviate the problem of organ scarcity (8). Additionally, patients who have chosen to donate organs, besides improving and/or prolonging the lives of dozens of patients on organ transplant waiting lists, would have the opportunity to give their death a morally significant value. Supporters of the absolute opposition to any form of euthanasia deem unacceptable even the request to consider the deceased patient as a donor following euthanasia treatment. On this point, the arguments put forward are not new, as it is stated that, while maintaining the moral unlawfulness and necessary legal illegality of any form of euthanasia or medical assistance
Organ donation after euthanasia

The laws currently in force do not expressly provide for organ donation after euthanasia; in fact, in the Netherlands, there is a directive in place to prevent patients from choosing euthanasia for the donation of their organs (9). However, this procedure is becoming more widespread. In Belgium, as early as 2005, just three years after the law was approved, four patients, one suffering from “unbearable mental disorder* and the other three from “a particularly debilitating neurological or muscular disease,” had requested to donate their organs after euthanasia (10, 11). In Spain, a national protocol has been developed to ensure that people who request it can donate organs after euthanasia (11-13). A study found that until 2021, organ donation after euthanasia had been performed 286 times in Canada (136 cases), the Netherlands (86 cases), Spain (7 cases), and Belgium (57 cases). These data included eight cases of home ODE (14). It is important to note that these data pertain to the years 2020 and 2021, during which healthcare services, including organ transplants, were reduced due to the Covid pandemic. It can therefore be anticipated that in the coming years, the number of cases will increase. It is challenging to quantify the number of patients who would potentially be eligible, from a medical standpoint, to donate organs after euthanasia because it is statistically established that the primary reason a patient requests to die is metastatic neoplastic disease, which is not compatible with organ transplantation. However, this problem could have a solution. Firstly, it must be emphasized that even if the disease afflicting the prospective donor is not compatible with donation, there are other parts of the body (such as corneas, skin, and many other organs) that are not affected by the illness and thus are transplantable. Additionally, since euthanasia and simultaneous retrieval can be planned, the medical team would have time to more thoroughly assess the organs to be retrieved using more innovative diagnostic techniques, compared to cases where death occurs due to a sudden and unforeseeable traumatic event (15, 16). Generally, these are patients suffering from neurodegenerative diseases such as amyotrophic lateral sclerosis (ALS) and Huntington’s disease. However, organ donation organizations should cautiously allocate organs from donors with undiagnosed or rapidly progressive neurodegenerative diseases, as these may pose significant risks to the recipient (17).

ODE is in fact a complex procedure involving the patient, the family, and the medical team. To address this issue, international organizations such as Eurotransplant, an organization responsible for organ transplants involving Austria, Belgium, Croatia, Germany, Luxembourg, the Netherlands, and Slovenia, have developed precise protocols to ensure ethical and compassionate end-of-life care and a positive donation experience for all involved parties. Countries that have legalized euthanasia and/or assisted suicide stipulate that access to these practices is only granted to patients suffering from a disease causing unbearable suffering and disabilities requiring continuous assistance, thereby entirely depending on others for their care.

The current laws do not allow patients to request organ donation after euthanasia solely for the purpose of benefiting other patients with their death, as the principle of dignity must prevail over the principle of social solidarity. Therefore, these laws do not permit euthanasia or assisted suicide if they are motivated by altruism rather than the desire to end an intolerable life caused by illness. Thus, in countries where end-of-life practices are legalized, it is necessary to verify the real motivations driving the patient’s desire to donate organs after euthanasia to ensure that the decision stems from the suffering caused by the disease rather than from altruistic intentions that are not consistent with the purpose of euthanasia. Therefore, it is useful to subject the terminally ill patient to psychiatric consultation, which could ascertain, for example, whether the patient chooses to hasten death through euthanasia because they believe that waiting for natural death would deteriorate their organs, thus making them unable to donate to a relative awaiting transplantation. Psychiatric consultation could also determine whether the patient has decided to undergo euthanasia spontaneously or because they have learned that another patient awaiting transplantation would be willing to buy an organ to expedite their transplant. In this case, the terminally ill patient might choose to hasten their death through euthanasia not because they are severely suffering from the disease but to financially assist their family (18). Physicians caring for the patient, as well as members of the ethics committee, should also investigate whether the patient desires to donate organs to a specific person who is not a family member or pre-existing friend.

What are the clinical and legal conditions necessary to proceed with organ donation for transplantation purposes?

The first issue to consider is related to the willingness to donate organs after euthanasia. Such willingness must be
ascertained along with the prerequisites that allow euthanasia (for example, the existence of an irreversible pathology with a dire prognosis, a source of intolerable physical or psychological suffering), while keeping in mind the patient’s motivations, which naturally cannot solely consist of the desire to benefit others by anticipating their own death. Doctrine agrees that it is preferable to consider the possibility of organ donation only after the doctor and the patient have decided to undergo euthanasia (19). Only after it has been established that the will is consistent with the purposes of euthanasia, does the issue arise of whether to inform the patient about the possibility of donating their organs after death. Only if the patient is aware of all available options can they consciously and autonomously decide whether to donate their organs (20,21). In accordance with the principle of self-determination, any decision to undergo euthanasia (with or without organ donation) must be voluntary and not influenced by external pressures. Therefore, it is necessary to ensure that the patient who requests to donate their organs after euthanasia does so autonomously (22). For this reason, the physician should refrain from informing the patient about the possibility of organ donation (possibly emphasizing that their choice would help other patients save their lives) before their request for euthanasia is evaluated. In this case, the patient might think that by agreeing to organ retrieval, they could more easily obtain euthanasia, and thus, the decision to donate organs might not be spontaneous enough, potentially constituting emotional pressure on the patient (23). It is preferable to consider the possibility of organ donation only after the doctor and the patient have made a positive decision regarding euthanasia. Additionally, the physician must provide the patient with adequate information about organ donation, including the ability to revoke consent for euthanasia or donation at any time, and that withdrawal does not affect their consent or access to such practices. Current guidelines stipulate that there must be a clear separation between the medical team handling euthanasia, donation, and transplantation to exclude any conflicts of interest between the donor and recipient and among the involved medical teams, those performing euthanasia and those retrieving and transplanting organs (23).

The need for comprehensive and effective information also applies to situations where the patient is unconscious and their will regarding donation has not been previously acquired (24). In such cases, the physician must inform the patient’s family members about the possibility of organ donation after death so that they, after being briefed on the procedures to follow, can decide, whether positive or negative, with the support of medical professionals (25). Countries that have legalized euthanasia and allow organ donation after death follow different procedures. The Netherlands and Belgium, in our opinion correctly, leave the decision to the patient to address the issue, both to fully respect their autonomy and to avoid giving them the impression of hastening death to retrieve organs (25). According to the Spanish legal system, the organization responsible for organ donation or the designated physician directly approaches patients to inform and discuss this option with them (26).

However, after the patient has chosen to donate organs, the physician must provide detailed information about the procedure because some patients, while desiring to donate organs, may not want to undergo necessary preparatory investigations, such as blood tests and radiological imaging, or may not want to return to the hospital for organ donation after euthanasia is performed at home or in a hospice. The author believes that only clear, comprehensive, and transparent communication could increase and foster the patient’s trust in donation. For truly informed consent, it is necessary for the information to also cover the organizational aspects of the process to successfully complete the combined procedure. Indeed, it is important for the patient and family members to be aware that the procedure requires specific medical and organizational measures to not compromise the functionality of the retrievable organs, such as admitting the patient to the hospital before administering the lethal drug so that they can be immediately transported to the operating room after declaration of death. However, it is also correct to inform them that the procedure can (at least in part) be carried out in a home setting, as we will see later (27,28). The potential organ recipient should also be informed about the origin of the organs, respecting the anonymity of the donor, so that they can consent to or refuse the transplant (29-31). This is an additional guarantee for the recipient because, in principle, organ allocation is based on clinical and immunological suitability and risk assessment for the recipient.

Regarding organ donation and transplantation after euthanasia, the Eurotransplant Ethics Committee has made the following recommendations:

1. Euthanasia must be a legalized procedure in the donor country.
2. The euthanasia procedure and determination of death after the euthanasia procedure must comply with national legislation.
3. The euthanasia and organ retrieval procedures must follow a clear protocol.
4. The euthanasia, organ retrieval, and allocation procedures should be separated as much as possible.
5. All donors must be reported to Eurotransplant.
6. Organs from donors after euthanasia will be allocated only to patients on the waiting list for organ transplantation within Eurotransplant, and within Eurotransplant, in countries that accept transplantation of this type of organ from a donor.

The issue of conscientious objection in organ transplantation

Healthcare personnel who are part of the transplant team, if they believe that euthanasia (or assisted suicide) is contrary to their ethical or religious convictions, may refuse to remove organs from the body of someone who has died by their own decision because so would legitimize a practice considered unacceptable (32). This form of conscientious objection is legitimate only for physicians who must retrieve the organs. It does not seem to apply to physicians who must transplant the organs themselves into the body of the transplant recipient. In this case, the duty of physicians to treat would outweigh any scruples arising from the fact that the donor died by euthanasia (33). Patients receiving organs have the right to know if they come from a person who underwent euthanasia. Indeed, they may consider it
morally wrong to benefit from someone else’s euthanasia if they consider it an inherently immoral act and contrary to their conscience.

The combined procedure of euthanasia and organ retrieval: the patient’s desire to die at home and the need to be in the operating room

The decision to donate organs after euthanasia has a significant psychological impact on the patient. A statistical survey found that over 80% of patients who have chosen euthanasia prefer to die at home (32). In this circumstance, the patient’s desire to end their life in the comfort of their home where they have lived may conflict with the need for euthanasia and organ transplantation to occur in a hospital equipped for organ retrieval within inevitably tight timeframes to not compromise the functionality of the organs to be harvested and thus the successful outcome of the operation. Indeed, donation following euthanasia or assisted suicide requires special medical and organizational measures (34-37).

As a rule, the administration of the euthanasia procedure is carried out in the hospital to allow for the patient’s transportation to the operating room immediately after the declaration of death, thus limiting ischemic damage to the harvested organs (38). General practitioners, organ donation organization staff, and transplant teams should work to minimize the impact and discomfort for the patient resulting from organ donation. This could include planning home visits for blood draws and coordinating investigations (e.g., X-rays, ultrasounds) to minimize hospital visits and inconvenience for the individual. However, the physician should inform the patient that, if preferred, the euthanasia procedure combined with donation can be initiated at home (ante mortem interventions) (39). This procedure requires perfect organization to arrange ambulance transportation in advance and ensure the availability of surgical staff and the operating room for both the donor and the recipient. The main practical organizational challenge is to ensure that the individuals directly involved in the procedure converge in the right place at the right time. Therefore, precise coordination of the entire procedure is necessary to ensure that there are no delays in donor transportation and arrival in the operating room for organ retrieval (40).

To reconcile the wishes of patients and the need to expedite procedures, a possible solution could be to equip certain hospital facilities to create a welcoming environment for accommodating the patient and the individuals they wish to have nearby at the time of passing. In this way, the patient, as a prospective donor, would consent more calmly to the harvesting of their organs.

Conclusion

The combined practice of euthanasia and organ donation for other patients suffering from serious illness allows for the valorization of the patient’s volitional autonomy. The patient who requests to end their life does so not only because they are tormented by unbearable suffering but also because they no longer want to depend on others. This situation often arises because the illness leads to disability. For this reason, the patient may lose self-esteem and perceive their life as no longer corresponding to their concept of dignity. This situation could motivate the patient to want to contribute socially. The only possible way is to donate organs that could help other patients continue to live. The considerations we have expressed require further exploration by healthcare professionals, physicians, bioethicists, lawyers, and therefore it would be appropriate to initiate a shared reflection on the medical-legal aspects, on the ethical-legal issues that can enlighten legislators who in many countries are in the process of preparing laws on the introduction of euthanasia practices, but also on organ donation, practices that are interconnected.

Donation after euthanasia may seem possible because it can reinforce the patient’s autonomy, give meaning to their inevitable death, and can be an additional source of organs needed to save human lives. Given the delicacy of the interests at stake, to understand which guarantees need to be respected before proceeding with the retrieval of organs from a donor undergoing euthanasia or assisted suicide, it is necessary for the involved parties, physicians, bioethicists, lawyers, to further stimulate the debate on ethical-legal issues, also to guide legislators who intend to regulate these very delicate situations. It is indeed important to enact detailed legislation, guidelines, comprehensive information for all parties involved in the process, patients, healthcare personnel, and families. Finally, it is necessary to allocate the necessary resources to support all phases of the care pathway, which must be able to operate effectively and swiftly at any given moment.

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