

THE JUDICIAL REGIME OF THE BIOMEDICAL PRACTICES, IN THE LIGHT OF THE NEW ROMANIAN CIVIL CODE

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ABSTRACT: *The article represents a commentary of the main alterations brought to the judicial regime of biomedical practices (curative and predictive medicine, organ procurement, exam of genetic characteristics, medically assisted reproduction) by the adoption of the Romanian New Civil Code. The new legislative framework is intended to protect vulnerable persons from biological exploitation, objectification of the human body or genetically based discrimination. The legislator's option for requiring the existence of an explicit, written, unequivocal, free and informed consent of the organ donor indicates without a doubt that, in the light of the new legislation applicable in the Romanian law since October 1st, 2011, organ procurement and transplantation is no longer authorized on the grounds of a tacit or presumed consent, the donor's written, express assent thus being required. The second major characteristics of the new legislation are related to the regulation over the donor's legal right of retract, exercisable by the donor in cases in which he or she intends to modify or revoke the prior consent to the organ procurement, before the initiation of the procurement procedure. In the field of the medically assisted human reproduction, the requirement of a parental project reverberates over the validity of the future parents' consent, so that the death, the divorce or the simple physical and patrimonial separation of the potential parents will be automatically followed by the inefficiency of their consent. The principle of the non-objectification of the human body justifies the legal prohibition of the scientific research on human embryos. The latter cannot be seen as merely material objects of scientific research, the present legislation prohibiting the creation of human embryos in the absence of a parental project and in the sole purpose of scientific research.*

KEYWORDS: *predictive medicine, respect due to human beings, bodily integrity, organ transplant, eugenic practices, cell research, gene therapy, New Romanian Civil Code*

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