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TRANSPLANTATION DEBATES IN ROMANIA BETWEEN BIOETHICS AND
RELIGION

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Abstract: In this paper, we thoroughly investigate the various solutions proposed to solve the problems of transplantation system in Romania. Three types of solutions are especially envisaged: legislative ones, institutional ones and cultural/religious ones. We carefully analyze the main ethical and logistical arguments on presumed consent and its alternatives in Romania: family consent provided by the relatives and mandated choice. Special attention is dedicated both to institutional solutions (organizational, educational and information issues) and to religious arguments and motivations, for there were several indicators of their importance for Romanian bioethical discourse in general and for their prevalence in transplantation debates in particular.

Key Words: transplantation ethics, Romania, debates, bioethics, religion

Introduction

Public debates are an important dimension of the democratic dialogue between institutions¹ participating in the public sphere of a society². Transplantation has been one of the areas in Romanian health policies that, without reaching the center of the public agenda, has nevertheless generated constant debates that took place in a variety of spaces: in the Parliament, in mass-media, in health institutions and in the academic sphere. In this paper, we sum up a series of events, articles, personal positions, public statements that have collectively shaped and articulated the debates on transplantation, with its numerous challenges and possible solutions.

Besides the analysis of relevant documents (legislative texts, various media documents stating key positions, church documents), a series of semi-structured interviews with major actors of the debate (transplantologists, representatives of the Christian Orthodox Church, representatives of the Romanian College of Physicians) were carried on in Cluj, Iasi and Bucharest. Interviews were recorded between December 2010 and April 2011, by the two authors (Cristina Gavriluță and Mihaela Frunză) and, for logistic reasons, by a colleague from Bucharest (Theodora-Eliza Văcărescu). The interviewees were chosen due to their constant interest and dedicated energy, in recent years, on major issues in the field of health policies, transplantation being at the center of them. Due to the specific character of Romanian society, several theologians that were involved in bioethical discourse were included as well. Questions targeted the situation of the Romanian transplant system, existing alternatives to and ethical arguments concerning presumed consent and relevance of religion and religious organization in shaping health policies in general, and transplant policies in particular.

There is almost a consensus among the sources investigated concerning the current situation of the Romanian transplant system. On the one hand, the whole system is suffering from underdevelopment, like the entire Romanian healthcare system, while on the other hand, the few professionals involved are deemed to be well prepared and to resemble, in their professionalism and expertise, to their EU fellow transplantologists.

Statistics show that in Romania, during 2010, around 200 kidney transplants, 175 medullar transplants, 50 liver transplants and 6 heart transplants were performed. Romania is situated above the European average with 25% - 32% on various transplant-related topics: family discussions concerning organ donation, the availability to donate an organ or to agree with organ donation of a deceased family member or accepting a donor card.³ However, as everywhere in Europe and globally, at the end of 2009⁴ the waiting list for transplantable organs was much longer: around 7000 waiting for a kidney, 338 for a liver, 70 for a pancreas and 158

for a new heart. This is the situation of transplant in 2009 and there are reasons for arguing that it did not change significantly in subsequent years.

However, the image of transplantologists is that of a respectable profession. For instance, the acting president of the Romanian College of Physicians said that: „therefore, transplant in Romania displays no major difference from transplantation in other EU countries (...) the transplant program is accomplished each year, but is as underfinanced as all the other health programs in Romania”⁵. A theologian affirmed that the transplant system: “is virtually unknown by the general public (...) although the practice in this field reached the top”⁶, while a practicing transplantologist, director of a transplant institute, claimed that it is “in a significant progress compared with the previous years and, generally speaking, in a slow, but constant progress”⁷. Therefore, all the key actors involved in this field have praised the quality of the Romanian transplant system and its dedicated professionals, despite the current shortcomings and the perpetual crisis of healthcare system in Romania.

Statistical data, corroborated with the motivations expressed in the last Eurobarometer by Romanian respondents who do not want to become donors⁸, indicate three types of reason for refusing to become a donor: lack of information (48%), lack of trust in the medical system in general (18%) and religious reasons (17%).

In order to address these issues, there are three categories of solutions that may be discussed: legislative solutions, institutional solutions and cultural/religious solutions. For the sake of coherence and clarity, we will present them one by one, although, at a practical level, a combination of them would be more suitable.

Legislative solutions

A recent review article analyzing the European strategies⁹, complemented by an American counterpart¹⁰ regarding the augmentation of organs donated for transplants from deceased donors indicate the legislative solution, among others, for increasing the number of donors in the system.

In the literature, there are several approaches towards legislating consent for deceased donation: explicit consent of the possible donor during life¹¹ (supplemented or replaced by the actual consent of relatives after death); presumed consent (the deceased being considered a possible donor by default, and in case of disagreement having to register the denial in a formal way); and mandated choice (defined by making everyone choose their option – to donate or not their organs after death – at a determined, mandatory moment). Each solution has its advantages and drawbacks, both from an ethical point of view and from a logistic one.

Family consent

In Romania, the existing solution is the one stipulated in the Law 95/2006, which is detailed in Article 147, Title VI:

“4. Harvesting of organs, tissues and/or cells from deceased persons may be done only with the written consent of at least one of the major family members or relatives, in the following order: husband, parent, child, brother, sister. In their absence, consent will be obtained from the legally authorized person who, according to the legislation, can represent the deceased one; in both situations, it will proceed according to the model from Annex no. 4;

5. The harvesting can be done without the consent of family members only if, during life, the deceased person has already expressed the option to donate, through a notary act of consent for harvesting or through registration in the National Registry of donors of organs, tissues and cells, according to the model from Annex no. 5;

6. The harvesting cannot be done in any circumstance if, during life, the deceased person has already expressed his/her option against donation, through a document of refusing donation approved by the family physician or through registration in the National Registry of those who refuse to donate organs, tissues and cells. The document of refusing donation, approved by the family physician, will be submitted by the caregivers to the transplant coordinator”¹².

The consent solution stipulated by the law presents several shortcomings that are of logistic nature but not without ethical implications: it does not say what happens if family members are in disagreement regarding the decision to donate. It also imposes more burdens to those who wish to affirm their future donor status than to those who are unwilling to become donors after death, because the future donors have to obtain a notary document (which is a process both time-consuming and expensive), while future non-donors have only to secure a document from their family physician. From a practical point of view, both solutions are difficult to pursue, because there is no way of centralizing these options. If one's family does not want to show the document (and it is very improbable that the deceased would manage to provide the document to the transplant coordinator) the whole procedure

could very well be in vain. Theoretically, there is an option of registering one's decision either in the National Registry of donors of organs, tissues and cells or in the National Registry of those who refuse to donate organs, tissues and cells, but the registry has become functional only in 2008 and it has ever since been used rather for listing actual deceased donors (post factum) than for registering intentions to donate, like in other European countries.

In practice, possible donors do not register their wish during life and the burden of decision rests with the family members. The following problems can occur: the wish of the deceased can be overlooked and family members have to take the decision under tense circumstances. Even in these conditions, Romanians tend to show openness towards transplantation. The family refusal rate is considered reasonable and close to the EU average. Due to these drawbacks, the actual system of extended family consent was qualified as a "substitute" system¹³, but it is still considered superior to the alternative of presumed consent.

Presumed consent

During 2007-2008, the solution of presumed consent¹⁴ was contemplated as an attempt to solve the chronic problem of the low donor rate from a regulation perspective. Prior to 2006 (the year when the most recent law on transplantation was adopted), several specialists considered that a paragraph of the previous law included the possibility of a form of presumed consent, in cases of death where the body was not claimed by the family:

"Law 104/2003 regarding the manipulation of human dead bodies and harvesting of organs and tissues in view of transplantation introduced a new aspect, that of presumed consent. According to this law, harvesting of organs and tissues could be done also from deceased persons identified and unclaimed by first degree relatives or husband/wife and who did not sign during their life a notary document indicating donation refusal: regulations that can be assimilated to the notion of presumed consent"¹⁵.

The much-applauded Spanish model¹⁶ and its spectacular effects in increasing the donation rate, together with other examples from EU countries, was an inspiration for the initiators of the law project PL-x nr. 404/2008, for modifying and extending the Law 95/2006, concerning the reform in healthcare.

The bill was initiated by several deputies and senators (Ovidiu Brînzan, Aurel Nechita, Ion Luchian, Gheorghe-Eugen Nicolăescu, Mircea Ifrim, Petru Movilă, and Dan Sabău) and was openly supported by the

National Transplant Agency, several transplantologists and a few media institutions¹⁷. The project was initially approved in the Senate Chamber (February 2008), was blocked at the Commission of Human Rights, Cults, and Minorities (September 2008) and was later rejected in the Deputies Chamber (March 2011).

Several years after the heated debates inside and especially outside the parliament¹⁸, the general opinion according to the key actors involved is that the debate was inappropriately organized in Romania at that particular moment of time.

The acting president of the National College of Physicians, both involved and interested in this debate, mentions a series of arguments – of ethical nature as well as circumstantial ones – that lead to the rejection of bill:

„The ethical arguments that we raised were: the dignity of the person, the right to decide, the fact that the human body is not the property of the state, but remains, say, the property of the person even after death. [There were also] cultural and social arguments (...) however, the ethical arguments were not the ones who tipped the balance over, but rather the fact that the electoral campaigns were close and the image deficit for those who would introduce such a manner of obtaining consent would have been devastating”¹⁹.

Looking back retrospectively, a transplantologist who initially was more open to presumed consent²⁰ motivates the merits of the present law in the following terms: „there is a law that covers, so to say, the ethical requests of our geographical space, which are those of the Romanian community and which involve the family consent, that I guess it's the most appropriate for Romanian mentalities”²¹.

Finally, a theologian who served as secretary of the Commission on Bioethics from Cluj nuanced both the societal and religious implications of presumed consent:

„Presumed consent is no alternative in Romania. There are two reasons for this. We return to the lack of education: especially when speaking about a profound reluctance, sometimes with a religious motivation, there is no solution to attempt an imposition by means of the law. This would be nonsense, and the consequence would be a quasi-unanimous rejection. Further on, we have no education of thinking about death. There are cultures where this is no issue. Starting from here, there is people's reluctance to relate to the

perspective of their own disappearance. Again, the lack of education on the death issue, hiding from ourselves, even if the Church repeats it for thousands of years, transforms it into a taboo question. For these reasons, it is difficult to make somebody say what he wishes to happen to his body parts after death.”²²

On the other hand, many authors show that presumed consent, in itself, does not represent a solution for increasing the donation rate²³. Thus, considerable variations exist between countries implementing presumed consent (e.g., 90 organs p.m.p. in Belgium compared to 2 organs p.m.p. in Bulgaria, although both countries have adopted the presumed consent solution), as well as between countries adept of explicit consent vs. those favoring presumed consent (e.g., approx. 50 organs p.m.p. in Germany, where explicit consent is enacted, compared to 30 organs p.m.p. in Hungary, where presumed consent is enacted).

A similar opinion is expressed by the president of the National College of Physicians:

“(...) for the rest, even with presumed consent, the number of donors will not increase, because the physician will bear the risks of being accused of an abuse, and may at anytime be investigated by the College of Physicians, and this will lead, like in Spain, where, for Spanish citizens, there is a soft presumed consent: namely, if the family says “no”, even if the law allows it, the organs are not harvested particularly because of the fear of such consequences. The same would apply to Romania: we would have presumed consent, but no extra organs”²⁴.

This perspective on presumed consent and its possible effects point towards a sociological approach of the transplantation issue. We are thinking at Merton’s analysis²⁵ concerning the consequences of social processes that can display *latent* effects. In R. K. Merton’s view, the separation between cultural purposes and social means may produce anomie. In the case of transplant, a law of presumed consent could lead to anomic effects such as: constant rejection and disrespect of the law, a tense relationship between physicians and the families of the deceased, could lead to suspicion and multiply the allegations of medical malpractice.

Summarizing the experts’ opinion, the major drawbacks of presumed consent consist in the following: it overlooks the decision of the deceased person; it leaves room for all sorts of abuses from and for the medical

body; it is inadequate in the Romanian context due to the pervasive lack of information on these matters²⁶.

Mandated choice

There were voices that attempted to achieve legislative solutions outside of the dilemma presumed consent/vs./ family consent²⁷. A few years ago, in a review of the legislative options available in the European model, several specialists stated that:

“The moral alternative could be encouraging the voluntarism and introducing the donor card, which reflects the person’s option for tissue and organ donation. We believe that an efficient system of post-mortem identification of the potential donors is necessary, after fulfilling all the mandatory requests concerning consent, together with forming and employing some specialists in the field of health, mandated with the detection of could-be deceased donors. The population should be encouraged to discuss organ donation and to inform their relatives of their intentions”²⁸.

A similar alternative that entered the public debate was that of mandated choice²⁹. Thus, the context for this debate was represented by an Emergency Ordinance of the Ministry of Health, which envisaged the distribution of a national health card to all the persons enrolled in the national health insurance system. This card was supposed to store a multitude of information concerning the health state of a person such as vital risk diagnoses, chronic diseases, blood group and RH, including his/her future option to become donor after death³⁰. There were many critiques on the issue of the health card, as it appeared to endanger the privacy of the patients’ data³¹. However, the discussion concerning the health card became in itself a controversial issue, as it was interpreted in the media as yet another attempt to introduce the presumed consent solution.

Asked about the possibility that the future card may include the notion of presumed consent, Vasile Astarastoe answered:

„I don’t believe that the card will store this thing, because it would be against the law; the law clearly stipulates this aspect and therefore, with this aspect, the law should also be changed; in order to be changed, there needs to be a public debate. Thus, I believe the information or the communication from the Health Minister is wrong because, for instance the Minister told me that, on the contrary, the thing is about informed consent, namely at the

moment when somebody gets the card, he will declare his intention of becoming a donor, and then on the card it will be stored “donor”, and for those who don’t want it will be stored “non-donor” and that, at any given time, the person may cancel this agreement”³².

Theoretically, the cards should have been already distributed to the insured persons (starting July 1st, 2011); however, the Emergency Ordinance was rejected in the Chamber of Senate on March 2011³³.

Another attempt was a bill modifying Title VI, initiated by a group of MPs. The proposed law basically aimed at introducing mandated choice in several determined instances (when changing one’s official ID card, passports, driver’s license, the Health Insurance Card or when operating modifications in those documents). The bill included a form where each person could list the wish of either becoming a donor or refusing donation, and introduced the obligation for filling this form when soliciting a new ID document, as well as the possibility to change one’s mind at anytime. The National Agency of Transplant, according to this proposed law, would have been mandated to initiate a public information campaign called “The Manifesto of the National Agency of Transplant” through which to thoroughly inform citizens about the opportunity to become a donor after death. However, the bill was rejected.

Institutional solutions

There are many voices both from within and from outside the medical system that situate the problem of transplant rates in Romania not in relation to the legislation system, but to several institutional issues.

Organizational issues

The donation rate is certainly influenced by the level of organization of the transplant system. In Romania, the institution that coordinates the administrative details of transplant is the National Transplant Agency (NTA). It is the ultimate body that gives accreditation to the hospitals that may organize transplant activity, and it supports the regional transplant coordinators. In recent years, the institution has been negatively influenced by a fertility clinic scandal³⁴ that led to the termination of the mandate of then acting head of NTA, Victor Zota. After his departure from the agency, some coordinators also resigned, which only worsened the existing condition. Nowadays, there are only four regional coordinators listed on the institutional website³⁵ (their number varied between five and seven), a fact that, coupled with budgetary restrictions preventing the employment of new state-funded employees, lead to significant problems in a system that was already too small.

In the Romanian healthcare system, there are only a few centers and specialists who can perform organ harvesting, and even fewer who can make the transplant (for kidneys, transplant centers are in Cluj, Iasi, Craiova, Timisoara and Bucharest; for liver, in Bucharest, for heart, in Tg. Mures).

For some of the key actors involved, this translates into evidence that no extra organs are needed, because the system could not absorb them due to underdevelopment: "I am saying over and over again: for Romania, it is a false problem [the donor rate] because, even if we do increase the available organs, we would do nothing else than exporting them... at the level of financing and the budget of the Ministry of Health combined with the fact that the population is so poor, we would do nothing else than introducing inequities in this field"³⁶ states prof. Vasile Astărăstoae, President of the National College of Physicians³⁷.

Educational issues

Recent studies also show that there is a strong correlation between donation rate and the attitude of the intensive care staff, their level of confidence and the educational needs related to donation³⁸. Also, the same studies that present the success of the Spanish model emphasize that an essential aspect of it was the continuous effort in educating the intensive care staff, the anaestheologists, neurologists, neurophysicians, medical staff and transplant coordinators³⁹.

Not in all Romanian hospitals with an intensive care section there is well-organized information or practice concerning the steps towards declaring a possible deceased donor.

"So, a good organization of the system with qualified persons in this field is necessary. The persons would need an ethical qualification too, because they are more likely to be qualified as organ providers, "sellers" and ushers. Information (promoting the advantages of this therapeutical act) is the only solution that could lead to the rise of organ donations. Otherwise, even if presumed consent will be introduced, the donation rate will not increase"⁴⁰.

The transplantatologists also agree on the fact that one of the major problems of the Romanian transplant system is represented by the weak connection with the departments of intensive care: "The big problem with donor numbers is the cooperation with the sections of intensive care; it is only obvious that there are sections of intensive care with the same numbers of beds, with the same number of patients, having the same pathologies and the same diagnoses, and that nevertheless did not refer any donor."⁴¹

At present, there is research going on at the level of intensive care staff, basically neurosurgeons and neurologists from Moldova (one of the Romanian regions where relatively few donors were referred compared to the national average), attempting to investigate the educational needs that are required in order to contribute more effectively to referring possible donors towards the Romanian transplant system.

Information issues

A research⁴² conducted in 2010 on a sample of 265 persons in hospitals from four Romanian districts has shown that, for 66.8% of the respondents, the main information source concerning transplantation is the media. This shows that the attitude and the information effort of the medical staff (the anesthesiologists, physicians from the intensive care units, transplant coordinators) is not perceived according to the expectations.

Even if many agreed that “An educational and awareness strategy for the population is needed, as a better alternative solution at present in Romania, compared to immediate adoption of presumed consent”⁴³, such a strategy was invisible in the last years. The lack of any consistently organized and publicly supported information campaign on the issues of organ donation and transplantation was deplored by virtually all respondents, although opinions on who would be the most appropriate authority to run such a campaign were split. Some indicated, among possible organizers, the Ministry of Health, although recognizing that the chronic lack of funds of the institution would prevent the realization of a prolonged and systematic campaign. For instance, a theologian stated that:

“Thus, a campaign should be organized by many institutions; if it would be realized by a single institution, it should be coordinated by those from the medical field, from the Ministry of Health, a campaign having at the center this very problem [transplantation]. Anyway, such a campaign would be pretty much expensive and, given the present situation of the healthcare system, the ministry is in no position to support such a campaign over a long period of time”⁴⁴.

As we will discuss later on, the ministry was seen not as the single organizer, but as the main institution responsible of initiating such a campaign.

Some respondents argued that the educational system was preferable because of its universal and mandatory character. Thus, there was even a proposal for a bill attempting to introduce a new study subject for students, “Education for health”, where issues such as transplantation

could be discussed well in advance. One of the respondents who, apart from his profession as physician, is also a member in the Deputy Chamber, said that:

“So, we have a proposed law on this aspect, education for health in schools. And this should be taught according to the level of the biopsychological development of the child, namely to do what he understands. Therefore, first to wash his hands and the like, and as he reaches the more advanced levels to know what means, say, sexual education, what means first aid or what means to donate to somebody one’s organs. It is important. (...) I plead for information and education in every field, even more when the issue at stake is sensitive, such as transplantation”⁴⁵.

A similar view is in agreement with the theologian Stefan Iloaie: “One should begin with the education in high schools. This should be the starting point, such as those young persons, when they reach 30, they will know about it, they will be a generation that knows about those things [transplantation]”⁴⁶. The educational solution is also adopted in many EU states with high donation rates, either as modular courses or even in the form of courses taught to relatives of potential transplant candidates⁴⁷.

Cultural/religious solutions

Still, as curriculum change in order to introduce a new subject might need many efforts to be implemented and can take years to be evaluated, a more effective solution in the short run (that ideally would take place in parallel with all the other measures or solutions discussed) could be a close cooperation between lay institutions and church-based ones. This could be an interesting option especially in a country such as Romania, where, according to several public opinion polls, the Church is highly trusted by the population. Respondents also mentioned that the majority church, the Orthodox Christian one, claims openness and support for transplants that are performed with the informed consent of the donor⁴⁸.

Sociological research proves that, although there are distinctive models of the separation and delimitation of the church-state relationships, there are many connections between them. This is especially valid in the case of Romania, where during the last two decades we can observe certain patterns in the cohabitation of the state with the church. The number of self-declared believers in opinion polls and their proportion in the general population do not leave those who serve in various state institutions indifferent. Behind the statistics, they see behaviors and attitudes generated by belonging to a cult or another, a fact

that at a certain moment can be the symptom of an incompatibility between form and content.

A concrete example was offered at the County Hospital from Timisoara, where the physicians self-organized a several years campaign to increase the donor rate, combining the efforts of the media and the church: “We used to have participants in TV programs, in the media, in which the church representatives openly declared themselves in favor of transplant and organ donation of those in brain death. The hospital priest works greatly with us, is always with us when we approach the relatives and performs the necessary religious ceremonies”⁴⁹. According to the chief of the intensive care section, the numbers of operations progressed from nil to one per month, respectively to twelve per year.

Leo Roels⁵⁰ emphasizes the importance of the social, cultural and religious data for building a coherent and convincing discourse on the topic of transplantation. For this reason, it is important to know the social rituals concerning death, the social representations of the body, as well as myths and daily routines⁵¹. In this complex socio-cultural context we can suggest several solutions that could facilitate a positive attitude towards organ donation.

It is also important, on behalf of the church, assuming a discourse that is favorable to organ donation and which values ideas and Christian principles universally shared. Thus, the gesture of organ donation may take the form of many definitions given with a Christian flavor. It can be a priceless gift, the highest form of one’s love for the other, or a way of expressing the freedom of choice. This is the way in which we can overcome the distance that we can perceive between the official declarations of the Church⁵² and the actual possibility of articulating a convincing discourse that would not betray in any way the Christian values. The fact is even more important in the case of a population with self-declared religious sensitivities.

His Holiness Teofan, the Head of the Romanian Church, proves that the Church may cover in its message all the subtleties necessary for understanding that organ donation is an entirely special gesture:

“Departing from the word of Christ, that there is no greater love than that a person gives her life for another person, one has arrived at the conclusion that, if during the entire life it is permitted to sacrifice one’s life for another, more so a part of your body can be used for the health of the other. Starting from this text from the Bible, as well as from others, from the Gospels or from the writings of the Holy Fathers, a conclusion was reached – namely that organ transplantation in itself is not a negative act, with the mention that (as others from the ecclesiastical sphere also do) the contribution in

the form of an organ to another's life should not endanger the donor's life. This later granted, the Church has shown openness, a certain openness towards organ transplantation"⁵³.

However, the Church openness towards organ donation may take many forms. One of them is promoting the idea of the goodness of organ donation, or at least promoting the official position of the Church among its supporters (priests and lay believers). Already in 2003, the Synod of the Romanian Orthodox Church has adopted a Declaration on Bioethics concerned with transplantation, in which it affirmed its convergence with general Christian behavior and values: "To donate an organ, a tissue, or merely a drop of blood, out of one's love for one's neighbor, means to self-give and self sacrifice one's whole self within the same all-encompassing mystical Body of Christ"⁵⁴. However, not all the members of the Church, not to mention lay people, are familiarized with this declaration, as Stefan Iloaie notes: "Last but definitively not least, the church could have a role in an information campaign, especially because there is an official document of the Church, the document of the Synod from 2003. However, the Document of the Synod is very poorly acknowledged, there are dioceses where the circulation of information is reduced. Things go better in Cluj".

Church openness towards organ donation may also take the form of direct and determined involvement in the shaping of health policies on transplantation. There is no accident that the bill attempting to promote presumed consent was blocked in the first instance in the Commission of Human Rights, Cults, and Minorities from the Deputies' Chamber", as a result of many types of pressures, among which one can signal the contribution of the Church. Even if not all theologians admit the role of the Church in putting pressures in that Commission, other respondents are more direct:

"There was a lobby there, a lobby made both by the Orthodox Church and by the College of Physicians, a lobby that was also supported by the fact that Romania is found on a top position in what concerns illegal traffic of organs which created restlessness so that the commission had to take into account all these elements..."⁵⁵.

Concerning the ways in which Church and church representatives should or could be involved in legislating healthcare, opinions were again divergent. Not surprisingly, several physicians questioned the relevance of church involvement in the matters of health policies⁵⁶ (however, without questioning the interest of the church towards transplantation). This relevance is considered dubious even by some priests, although they do not represent the majority. As Stefan Iloaie observed, in order to qualify as

participants at the debate, theologians should be well prepared in bioethics: “In order to be efficient, the position of the Church should be in the first place a balanced one; moreover, it should be mediated by people who are good specialists in the respective field – in this particular case, in bioethics”.

Still, other respondents underlined the privileged place that church occupies in national surveys investigating the trust level of the population in Romanian institutions: “in such a country, it is only natural that transplantation ethics be put in relation with the ethics of the religion of the citizens, and therefore the Church is obliged to intervene just in order not to create artificial conflicts in society, namely ethical conflicts”⁵⁷.

Conclusions

Public debates should be an important way of both informing and articulating the process of evaluating health policies on transplantation. The key actors in this debate have addressed many of the challenges, but also, and more significantly, possible solutions that should be taken into account when attempting to change the existing status quo. The debates on health care policies and health care reform are on-going during the last years in Romania, and they will continue in the subsequent ones. These debates are better informed when they incorporate the continuous reflections from public statements, media trends, and the key actors' positions. Concerning transplantation policies, there are several areas where crucial changes are needed. In legislative terms, a move in the direction of enforcing the individual explicit consent or refusal during life (either through a version of mandated choice, or through better organization of the National Registries of Donors/ Non-donors would be salutary). In terms of institutional issues, a more careful organization of the existing system, coupled with a planned enlargement of it, would only contribute to a larger number of physicians and transplant coordinators ready to explain the advantages of more donors in the system. The educational needs of the existing personnel need to be carefully addressed, as well as a planned and sustained awareness campaign targeted at the general population. Finally, the subtleties of the religious – and more general cultural – features of at least a large part of the population need to be considered, and the advantages of combining the secular discourse of lives saved through transplantation with the religious one on the Christian principle of love towards one's neighbors should not be overlooked.

Notes

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² For a short introduction concerning the ways in which reforms in Romania are problemized, see Călin Emilian Hințea, "Reform and Management in Romania. Strategy and Structural Change", *Revista de cercetare și intervenție socială*, vol. 34, (2011): 177-196; For the ways of discussing the problems in the management of reform in the system of public health, see Cătălin Ovidiu Baba, Alexandra Brînzaniuc, Răzvan M. Cherecheș, Diana Rus, "Assessment of the Reform of the Romanian Health Care System", *Transylvanian Review of Administrative Sciences*, vol. 24E (2008): 15-25.

³ See the data from the two Eurobarometers organized on this topics since Romania has been a part of EU: *Europeans and organ donation* Fieldwork October - November 2006, Publication May 2007/ and, respectively, *Organ donation and transplantation*, Fieldwork October 2009, Publication June 2010, http://ec.europa.eu/public_opinion/archives/ebs/ebs_333a_en.pdf

⁴ Data are available on the website of the National Agency of Transplantation, www.transplant.ro

⁵ Vasile Astărăstoe, Interview by Cristina Gavriliuță, Iasi, 18.12.2010.

⁶ Ștefan Iloaie, Interview by Mihaela Frunză, Cluj, 18.12. 2011.

⁷ Irinel Popescu, Interview by Theodora-Eliza Văcărescu, Bucharest, 22.02. 2011.

⁸ Organ donation and transplantation, Fieldwork October 2009, Publication June 2010, http://ec.europa.eu/public_opinion/archives/ebs/ebs_333a_en.pdf

⁹ Leo Roels, Axel Rahmel, „The European experience”, *Transplant International*, vol. 24, 4 (April 2011): 350–367.

¹⁰ James J. Wynn, Charles E. Alexander, „Increasing organ donation and transplantation: the U.S. experience over the past decade”, *Transplant International*, vol. 24, 4 (April 2011): 324–332.

¹¹ We emphasize that all systems recording individual agreements to become organ donors after death are only registering “possible” donors and not the actual number of donors. In order to become donor after death, the person should later die in a manner that makes her/him suitable for organ donation: either be diagnosed with brain death or cardiac death susceptible to organ harvesting.

¹² Title VI “Performing the harvesting of and transplantation of organs, tissues and cells of human origin, with a therapeutic purpose”, Law 95/2006 concerning the Reform in Health, available online: [http://legestart.ro/Legea-95-2006-reforma-domeniul-sanatatii-\(MTg5OTc3\).htm](http://legestart.ro/Legea-95-2006-reforma-domeniul-sanatatii-(MTg5OTc3).htm)

¹³ “In Romania, concerning the actual law, the problem is of consent, which is a substitute consent... however much better than presumed consent”. Vasile Astărăstoe, Interview by Cristina Gavriliuță, Iasi, 18.12.2010.

¹⁴ For understanding the ethical and metaphysical arguments in favor of presumed consent, see Michael B. Gill, “Presumed Consent, Autonomy, and Organ Donation”, *Journal of Medicine and Philosophy*, vol. 29, 1, (2004): 37-59. David B. Hershenow, James J. Delaney, „The metaphysical basis of a liberal organ procurement policy”, *Theoretical Medicine and Bioethics*, (2010), 31: 303-315.

¹⁵ Beatrice Gabriela Ioan, Vasile Astărăstoe, „Principiul autonomiei reflectat în legislația românească privind transplantul de țesuturi și organe”, *Revista română de bioetică*, vol 5, 1 (2007). In our semi-structured interview, we included a question about this paragraph, and asked our respondents about it. However, the majority of respondents seemed not to know about this paragraph, or insisted that it could not be interpreted as referring to presumed consent.

¹⁶ Rafael Matesanz, „Factors influencing the adaptation of the Spanish Model of organ donation”, *Transplant International*, vol. 16, 10 (October 2003): 736–741.

¹⁷ A media campaign in defense of presumed consent was conducted in November 2007 in the nation-wide daily *Cotidianul*. A number of six articles promoted the advantages of presumed consent: Răzvan Mihai Vintilescu, “V-ați dona organele în caz de moarte cerebrală?”, *Cotidianul*, 18.11.2007; Răzvan Mihai Vintilescu, “Editorial - Împotriva transplantului de prejudecată”, *Cotidianul*, 19.11.2007; Răzvan Mihai Vintilescu, “Crește oferta, scade traficul ilegal”, *Cotidianul*, 22.11.2007; Răzvan Mihai Vintilescu, “Banii votează pentru”, *Cotidianul*, 22.11.2007; Răzvan Mihai Vintilescu, “Cale liberă în parlament”, *Cotidianul*, 22.11.2007, Răzvan Mihai Vintilescu, “Argumentele forumiștilor pesimiști”, *Cotidianul*, 23.11.2007. The press campaign attracted a great number of comments from the readers (the majority of them negative) and received in 2008 the prize of the Romanian Press Club.

¹⁸ See an analysis of media debates during 2008 in Mihaela-Cornelia Frunză, Ioana Iancu, Sandu Frunză, Iulia Grad, Delia Balaban, Ovidiu Grad, „Media Analysis of Romanian Debates on Presumed Consent – Ethical and Legal Aspects” in W. Weimar, M. A. Bos, J. J. Busschbach (eds.) *Organ Transplantation: Ethical, Legal and Psychosocial Aspects*, Vol. II Expanding the European Platform, (Lengerich: Pabst Science Publishers, 2011): 218–228; Ioana Grigoraș, C. Condac, C. Cartes, M. Blaj, G. Florin “Presumed consent for organ donation: is Romania prepared for it?”, *Transplantation Proceedings*, vol. 42, 1 (January–February 2010): 144–146.

¹⁹ Vasile Astărăstoe, Interview by Cristina Gavriliuță, Iasi, 18.12.2010.

²⁰ Romtransplant News, December 2007, available online: http://www.romtransplant.ro/news_romtransplant_01.htm.

²¹ Interview by Theodora-Eliza Văcărescu with Irinel Popescu, Bucharest, 22.02.2011.

²² Ștefan Iloaie, Interview by Mihaela Frunză, Cluj, 18.12. 2011.

²³ A. Rithalia, C. McDaid, S. Suekarran, G. Norman, L. Myers, A. Sowden, „A systematic review of presumed consent systems for deceased organ donation”, *Health Technology Assessment*, 13 (26) (May 2009): iii, ix–xi, 1–95.

²⁴ Interview by Cristina Gavriliuță with Vasile Astărăstoe, Iasi, 18.12.2010

²⁵ R. K. Merton, *Social Theory and Social Structure*, (New York: Free Press, 1968), chapters. 4–5.

²⁶ These conclusions are consonant with the content analysis of Internet materials made by Ioana Grigoraș, C. Condac, C. Cartes, M. Blaj, G. Florin, “Presumed consent for organ donation: is Romania prepared for it?”, *Transplantation Proceedings*, vol. 42, 1, (January–February 2010): 144–146.

²⁷ For an analysis of the legislative aspects of the presumed consent vs. family consent or, in an alternative terminology, “opting in/opting out” dilemma, especially taking into account the new EU directives, see Juanita Goicovici, “Legal and Administrative Intricacies of the Romanian Healthcare Policies in the Field of

the Human Organs Transplants”, *Acta Universitatis Danubius. Juridica*, vol. 7, 2 (2011): 99-124.

²⁸ Harald Jung, László Hecser, „Bioetica transplantului de organe: atitudini europene”, *Revista Romana de Bioetica*, vol. 6, 3, (2008).

²⁹ For ethical issues involved in mandated choice, see H. Cotter, “Increasing consent for organ donation: mandated choice, individual autonomy, and informed consent”, *Health Matrix*, Cleveland, Ohio, 21(2) (2011): 599-626.

³⁰ The Emergency Ordinance 133/2010, published in Monitorul Oficial no. 893 from 30.12.2010 <http://www.legalis.ro/2011/01/10/oug-1332010-act-modificator-al-legii-952006/>. See also Hotărârea Guvernului pentru aprobarea normelor metodologice de aplicarea prevederilor referitoare la cardul național de asigurări sociale de sănătate din titlul IX Cardul european și cardul național de asigurări sociale de sănătate la Legea nr. 95/2006 privind reforma în domeniul sănătății, cu modificările și completările ulterioare, http://www.google.ro/url?sa=t&rct=j&q=ordonanta%20urgenta%20card%20national%20sanatate&source=web&cd=4&ved=0CDcQFjAD&url=http%3A%2F%2Fwww.ms.ro%2Fdocumente%2FHHG%2520norme%2520card%252011%2520ian%25202011_451_903.doc&ei=R5EvT46QCsjUsghb5f3vDA&usg=AFQjCNFHO87i71wPQbEImIbUVI0FeXKUQ&sig2=VuagQwrwt8U7L2OuM4Fdrg.

³¹ Presedintele Colegiului Medicilor nu are incredere in cardurile de sanatate (The President of the College of Physicians does not trust the health cards), NewsIn, Saturday, March 12, 2011, 11:22 hour, <http://www.ziare.com/stiri/spitale/presedintele-colegiului-medicilor-nu-are-incredere-in-cardurile-de-sanatate-1081140>

³² O dezbatere radiofonică cu Ioana Hașu și Vasile Astărăstoae extrasă din emisiunea “Sănătatea FM” din 05/01/2011., <http://medicalnet.ro/blog/Astărăstoae/dezbatere-radiofonica-cui-foloseste-cardul-de-sanatate/513/>

³³ OUG privind cardul național de sănătate, respinsă de Senat (The Emergency Ordinance concerning the national health card, rejected by the Chamber of Senate), Romanian Radio, Wednesday, March 23 2011, 11:39 hour, <http://antenasatelor.ro/social/7042-oug-privind-cardul-naional-de-sntate-respins-de-senat.html>

³⁴ See Mihaela Frunză, „Etică și vulnerabilitate în reproducerea asistată. Studiu de caz”. *Studia Universitatis Babes-Bolyai. Bioethica*, anul LX, vol. 2, (2010): 15-22. See also Elena Abrudan, „Ethical Expertise and Bioethics”, *Journal for the Study of Religions and Ideologies*, vol. 10, issue 30 (Winter 2011): 397-402.

³⁵ See www.transplant.ro

³⁶ Vasile Astărăstoae, Interview by Cristina Gavriliuță, Iasi, 18.12.2010.

³⁷ However, the argument of the lack of funds needs not be a final argument, especially since in other situations – for instance in the case of resident physicians – the authors pleaded for more money from the budget, not for sticking with the money available.

³⁸ Leo Roels, Axel Rahmel, „The European experience”, *Transplant International*, vol. 24, 4, (April 2011): 350–367.

³⁹ Rafael Matesanz, Beatriz Dominguez-Gil, Elisabeth Coll, Gloria de la Rosa and Rosario Marazuela, “Spanish experience as a leading country: what kind of measures were taken?”, *Transplant International*, vol. 24, 4 (2011): 333–343.

⁴⁰ Vasile Astărăstoae, Interview by Cristina Gavriliuță, Iasi, 18.12.2010.

- ⁴¹ Irinel Popescu, Interview by Theodora-Eliza Văcărescu, Bucharest, 22.02. 2011..
- ⁴² Beatrice Ioan, Cristina Gavriluță, Andrei Holman, Mihaela Frunză, Irina Streba, Adina Karner-Hutuleac, Roxana Zavoi, Lacrima Boila, „Level and Sources of Information on Organ Transplantation in Romania”, *Transplant International*, vol. 24, Suppl. 2, (September 2011): 325-326.
- ⁴³ Harald Jung, László Hecser, „Bioetica transplantului de organe: atitudini europene”, *Revista Romana de Bioetica*, vol. 6, nr. 3, (2008).
- ⁴⁴ Ștefan Iloaie, Interview by Mihaela Frunză, Cluj, 18.12. 2011.1
- ⁴⁵ Tudor Ciuhodaru, Interview by Mihaela Frunză, Iasi, 02.04. 2011.
- ⁴⁶ Ștefan Iloaie, Interview by Mihaela Frunză, Cluj, 18.12. 2011.
- ⁴⁷ See Neil Healy, Lesley Logan, Pamela Niven, Elizabeth Burchell, “Evaluating and organ donation teaching resource for secondary schools in Scotland”, *Transplant International*, vol. 24, suppl. 2, (September 2011): 326; A.E. Luchtenburg, S. Y. Ismail, J.J. van Busschbach, C. Boonstra, W.C. Zuidema, J.I. Roodnat, J. van de Wetering, W. Weimar, E. K. Massey, “Home-based group education: the solution for breaking barriers in communication and knowledge among non-European kidney patients”, *Transplant International*, vol. 24, suppl. 2, (September 2011): 73.
- ⁴⁸ See Ștefan Iloaie, “Ethics and life. The documents of the Romanian Orthodox Church on bioethics”, *Revista română de bioetică*, Vol. 7, 2, (April-June 2009): 18-29.
- ⁴⁹ Georgeta Petrovici, “Rețeta succesului donării de organe la Timișoara,” *Evenimentul zilei*, 6.10.2010, available online: <http://www.evz.ro/detalii/stiri/reteta-succesului-donarii-de-organe-la-timisoara-908133.html>.
- ⁵⁰ Leo Roels, Axel Rahmel, „The European experience”, *Transplant International*, Vol. 24, 4, (April 2011): 350-367.
- ⁵¹ For the debates concerning the role of myths and symbols in contemporary culture, see Cristina Gavriluță, *Socioantropologia fenomenelor divinatorii*, (Iași: Editura Institutul European, 2008); Cristina Gavriluță, *Sacrul și californizarea culturii. Șapte interviuri despre religie și globalizare*, (București: Editura Paideia, 2008); Cristina Gavriluță, Nicu Gavriluță, *Sociologia sportului. Teorii, metode, aplicații*, (Iași: Editura Polirom, 2010).
- ⁵² Biserica Ortodoxa Romana, „Transplantul de organe”, available online: http://www.patriarhia.ro/ro/opera_social_filantropica/bioetica_3.html
- ⁵³ His Holiness Teofan of Moldova and Bucovina, Interview by Cristina Gavriluță, Iasi, 24.12.2010.
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- ⁵⁵ Vasile Astărăstoae, Interview by Cristina Gavriluță, Iasi, 18.12.2010.
- ⁵⁶ Examples from the interviews with physicians include syntagms such as: “In matters of elaborating health policies it [the Church] does not have [a word to say]”; “my opinion is that in Romania, the Church should not be involved in transplant policies...”.
- ⁵⁷ Vasile Astărăstoae, Interview by Cristina Gavriluță, Iasi, 18.12.2010.

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