



MINISTRY OF
SOCIAL AFFAIRS AND HEALTH
FINLAND
National Advisory Board on Health Care
Ethics (ETENE)

OPINION

Rec no. HEL 1028-11

29 April 2005

Pertti Harvola, Deputy Director-General
Ministry for Foreign Affairs
Legal Department
P.O.B. 176
00161 Helsinki

Subject **Request for opinion from the Ministry for Foreign Affairs regarding the Bioethics Convention and its additional protocols and their signing and ratification**

The Ministry for Foreign Affairs has asked the National Advisory Board on Health Care Ethics to give an opinion on the Council of Europe's Convention on Biomedicine and its additional protocols concerning organ transplantation and research, as well as on their signing and ratification.

The Advisory Board dealt with the matter at its meeting on 31 March 2005. The Convention on Biomedicine and its ratification has been discussed several times at the meetings of the Advisory Board's working groups, as well at the training events arranged by the Advisory Board and its Sub-Committee on Medical Research Ethics. Nineteen of the Council of Europe member states have already ratified the Convention on Biomedicine, and the ratification process is far advanced in many other member states. In Finland, for instance the Act on the Status and Rights of Patients, the Medical Research Act, the Act on Medical Use of Human Tissues and Organs, and the Mental Health Act are quite in line with both the Biomedicine Convention and its additional protocols. There are no provisions in legislation that would be contradictory to the Biomedicine Convention. Neither is it probable that provisions in contradiction with the Biomedicine Convention will be included in the law on infertility treatment which is being drafted at the Ministry of Justice.

There has been discussion in Finland recently about research dealing with therapeutic cloning and about a possible use of 'personified' stem cells in the treatment of diseases in the future. Egg cells are needed for therapeutic cloning, and a cell tissue dividing like an embryo is produced by means of nuclear transplantation. The Finnish Medical Research Act defines that an embryo means a group of living cells resulting from fertilisation, and according to this definition a cell tissue resulting from nuclear transplantation would not be an embryo. At least a notification of this should be made when ratifying the Biomedicine Convention (Article 18).

The research protocol supplements the Convention on Biomedicine in respect of medical research. If the scope of the research protocol is interpreted narrowly, there can be found no contradiction in this additional protocol with Finnish legislation. If, on the other hand, its scope is interpreted broadly, Finland should either amend the

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Medical Research Act, which is not necessarily appropriate, or issue separate provisions on other research on humans.

Paula Kokkonen
Chair

Ritva Halila
General Secretary

APPENDIX: Extract from ETENE's minutes of 31 March 2005