



BODY DONATION LAWS AND PRACTICES WITHIN THE PERSPECTIVE OF FUTURE EUROPEAN TAPHONOMY RESEARCH

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SUMMARY

Authors of this article discussed different body donation laws and practices on the example of two selected countries conducting the decomposition research – the United States and the Netherlands, and one country where such an initiative still remains unlawful – Poland. The formal-dogmatic approach with both the legislative and secondary sources research has been applied by the Authors hereinafter.

In 2023, Authors of the paper conducted a preliminary research at the Forensic Investigation Research Station (FIRS) in Grand Junction, Colorado, with a purpose of assessing the viability of a decomposition facility in Poland. Various legal solutions regarding whole body donation were investigated in order to highlight their strengths and weaknesses, not only within the perspective of future taphonomy research, but also as for one's autonomy. Each section of the paper explores the legal basis for body donation and body donation programs (BDPs) of different universities.

Section one of the article provides a general understanding of organ and tissue donation, as well as whole body donation. Part two refers to body donation in the United States and includes the analysis of the Revised Uniform Anatomical Gift Act and body donation program on the example of the FIRS. Part three explores body donation laws in the Netherlands, as well as body donation program of the Amsterdam Research Initiative for Sub-surface Taphonomy and Anthropology (ARISTA). Section four, on the other hand, not only introduces Polish body donation laws, such as the Cemeteries and Burial Act or selected orders of the Ministry, but also presents general characteristics of medical universities BDPs and their most common provisions.

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Finally, after comparing presumed consent and informed consent legal frameworks, authors draw the conclusion about the (in)sufficiency of body donation laws in Poland, and highlight the necessity to increase social awareness as regards both body donation issues and taphonomy research itself.

KEYWORDS

Whole body donation, decomposition facility, taphonomy research, body donation program.

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INTRODUCTION

“Medicolegal death investigation is a complex multidisciplinary endeavor involving law enforcement, coroners and medical examiners, and a variety of forensic scientists including, but not limited to forensic pathologists”³. Forensic taphonomy, on the other hand, can be defined as “the study and interpretation of postmortem modifications to the body”⁴ that allows scientists not only to estimate the time since death, but also to reconstruct its circumstances and thus improve the work of law enforcement authorities. In the early 1980s, William M. Bass conceived and established the first forensic anthropology facility (so-called ‘body farm’) at the University of Tennessee in Knoxville, USA, which contributed to a significant development of forensic sciences. Over the years, more and more taphonomy facilities have been established in the United States of America, and only a few of them in other countries. A “body farm” is a research facility concentrated on studying the decomposition of the human body. It is usually an outdoor facility where donated bodies are placed, observed, and examined by scientists. The results of this research are beneficial for the law enforcement and judiciary work, as they may be used to determine approximate time of death which is crucial in some criminal and civil proceedings. Proper forensic research can also help with cadaver dogs training and allow police officers to recover human remains from the ground correctly. Without a doubt, it also has a great impact on different disciplines’ development, as it also is or can be directly related to entomology, osteology, or even chemistry studies. Scientists, as well as university students, can conduct

³ D. C. DIRKMAAT, L. L. CABO, “Forensic Archaeology and Forensic Taphonomy: Basic Considerations on how to Properly Process and Interpret the Outdoor Forensic Scene”, *Academic Forensic Pathology*. 6 (3) (2016).

⁴ A. M. CHRISTENSEN, N. V. PASSALACQUA, E. J. BARTELINK, “Forensic Taphonomy” (2014, Academic Press) chapter 5, p. 119-147.

research on various aspects related to the rate and pattern of decomposition. Numerous articles have been published on, among others, scavenging mechanisms⁵, skeletal trauma or other factors impacting human decomposition or skeletal features, such as body mass⁶ or use of drugs⁷. The tremendous scientific and practical value of taphonomy research facilities is undeniable. Nevertheless, it is not yet very common outside of North America. In 2018, Amsterdam Research Initiative for Sub-surface Taphonomy and Anthropology (ARISTA), the first decomposition facility in Europe, was officially opened in the Netherlands. The interest in forensic sciences seems to be growing year by year. However, so far, similar research in Europe has been conducted solely on pig cadavers. Even though pigs are considered the most adequate proxies for human decomposition studies, it has been known for a long time that “adequate” does not equal best and reliable.

In 2023, authors of the paper conducted a preliminary research at the Forensic Investigation Research Station (FIRS) of the Colorado Mesa University in Grand Junction, USA, in order to assess the viability of a decomposition facility in Poland. During the visit, particular attention has been paid to body donation laws and practices, as the receipt of bodies is one of the key components for the proper functioning of taphonomy facilities. In this paper, authors discuss certain legal and practical aspects of the body donation procedure with regard to mentioned existing facilities, as well as their potential establishment in Poland.

1. DEFINITION AND TYPES OF DONATION

1.1. ORGAN AND TISSUE DONATION

To begin with, it should be noted that anatomical donation can be defined differently depending on the legislation of a certain country, or whether it is a donation of a whole body or only a part of a body. One of Polish dictionaries describes it as a “donation of blood, organs or one’s own corpse for medical or scientific purposes”⁸. Slightly more comprehensive definition might be a “donation of all or part of a human body to take effect after the donor’s death (...)”⁹. Nevertheless, organ, eye, and tissue donation can also take effect during donor’s life, and this is why even four types of transplant anatomical donations are often distinguished: living donation,

⁵ S. GARCIA, A. SMITH, C. BAIGENT, M. CONNOR, “The Scavenging Patterns of Feral Cats on Human Remains in an Outdoor Setting”, *Journal of Forensic Sciences*. 65 (3) (2020).

⁶ L. ROBERTS, J.R. SPENCER, G. DABBS, “The Effect of Body Mass on Outdoor Adult Human Decomposition”, *Journal of Forensic Sciences*. 62(5) (2017).

⁷ N. MARQUEZ-GRANT, E. BALDINI, V. JEYNES, L. BIEHLER-GOMEZ, L. AOUKHIYAD, N. PASSALACQUA, G. GIORDANO, D. DI CANDIA, C. CATTANEO, “How Do Drugs Affect the Skeleton? Implications for Forensic Anthropology”, *Biology*. 11(4) (2022).

⁸ Wielki Słownik Języka Polskiego
<<https://wsjp.pl/haslo/podglad/55188/donacja/5157539/narzadow>> [accessed 2024 05 11]; All citations herein are translated by the authors.

⁹ Revised Uniform Anatomical Gift Act (2006 07 7-14), Section 2 (3).

deceased donation, tissue donation, and pediatric donation¹⁰. Donation of a part of a body is much more common than whole-body donation because transplantation (“taking body tissues from one body and placing them in another body or in another part of the same body”¹¹) allows healthcare professionals to replace damaged and missing organs or tissue and thus helps save the health and lives of many people suffering from physical injuries, severe diseases, infections, or other chronic conditions. This is why the definition of organ donation, as opposed to whole body donation, can be found much more frequently in dictionaries, as well as in different legal acts. Simply put, it is “the act of a person giving permission for a part of their body to be taken, while they are alive or after they are dead, and put into someone else’s body to replace an organ that is not working correctly”¹², whereas the literature on this topic suggests, for example, that “organ donation is when a person allows an organ of theirs to be removed, legally, either by consent while the donor is alive or after death with the assent of the next of kin. Common transplantations include kidneys, heart, liver, pancreas, intestines, lungs, bones, bone marrow, skin, and corneas. Some organs and tissues can be donated by living donors, such as a kidney or part of the liver, part of the pancreas, part of the lungs, or part of the intestines”¹³. In Polish law, the definition of donation can be found in the cell, tissue and organ recovery, storage, and transplantation Act, and reads as follows: “‘donation’ means donating human cells, tissues or organs intended for transplantation or use in human beings”¹⁴, but it refers solely to a donation of a part of a body, while whole body donation is not legally defined at all. A similar issue occurs in Dutch law, where the meaning of organ donation is expressed indirectly through two other terms: “verwijderen” (eng. *to remove*) and “implantatie” (eng. *implantation*)¹⁵.

1.2. WHOLE BODY DONATION

There is no legal definition of a whole body donation itself, but we can decode its meaning and character from several regulations in different legal acts, as well as from the literature. The main difference between organ and tissue donation and whole body donation is that the latter is a form of non-transplant anatomical donation, crucial for education and scientific research, as it serves both students and professionals involved in medicine and related sciences. Medical universities may receive bodies that are then intended for anatomy classes or – what is the main subject of this paper – the decomposition research. The value of whole body donation to science

¹⁰ <https://www.midamericatransplant.org/news/4-types-organ-eye-and-tissue-donation> [accessed 2024 05 11].

¹¹ Cambridge Advanced Learner’s Dictionary & Thesaurus <<https://dictionary.cambridge.org/dictionary/english/transplantation>> [accessed 2024 05 11].

¹² Cambridge Advanced Learner’s Dictionary & Thesaurus <<https://dictionary.cambridge.org/dictionary/english/organ-donation>> [accessed 2024 05 11].

¹³ R. P. TAMULI, S. SARMAH, B. SAIKIA, “Organ donation – ‘attitude and awareness among undergraduates and postgraduates of North-East India’”, *Journal of Family Medicine and Primary Care*. 8 (1) (2019), p. 130.

¹⁴ The cell, tissue and organ recovery, storage and transplantation Act (2005 07 01, the Official Journal of Acts 2023/1185), art. 2 (8).

¹⁵ Dutch Organ Donation Act (2022 01 01), art. 1 (d., e.).

and education is undeniable. This is why many universities establish body donation programs (BDPs) and even conduct research on people's willingness to donate their bodies¹⁶.

The paper focuses on the issue of whole body donation for educational and scientific purposes, primarily the taphonomy research. Considerations are based on the American law, due to the preliminary research conducted by the authors in 2023 and the fact that the United States were the first to ever establish a decomposition facility; the Dutch law, as it's the first and only country in Europe to conduct such research; and last but not least, the Polish law, as the authors aim to assess the viability of a decomposition facility in Poland, in regard to current body donation laws and practices and possible changes in this matter.

2. BODY DONATION IN THE UNITED STATES

(COLORADO)

2.1. LEGAL BASIS

In the US, the first legislation enacted by all states to address the donation of all or part of a human body was the Uniform Anatomical Gift Act (UAGA) of 1968. This federal law, revised in 1987 and 2006, created the power to donate organs, tissue, and other human body parts as gifts to qualified donees (recipients¹⁷ of the gift). Section 2 of the Revised UAGA defines terms used in the Act. According to it, the "anatomical gift" is "a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education"¹⁸. "Donor", on the other hand, is defined as "an individual whose body or part is the subject of an anatomical gift"¹⁹, whereas the person who may receive such a gift is "an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity"²⁰. However, when we look at Section 11 of UAGA, we can see that a donation for research or education can be made to the following persons: a hospital, accredited medical school, dental school, college, university, organ procurement organization or other appropriate person²¹.

According to Section 4 of the Act, an anatomical gift may be made during the life of the donor by the adult donor themselves, and if the donor is a minor (meaning an individual who is

¹⁶ See for example: I. MEESTER, M. POLINO GUAJARDO, A. C. TREVIÑO RAMOS, J. M. SOLÍS-SOTO, A. ROJAS-MARTINEZ, "Willingness toward post-mortem body donation to science at a Mexican university: an exploratory survey", *BMC Medical Ethics*. 24, 101 (2023).

¹⁷ It must be noted that according to the UAGA, a "recipient" is „an individual into whose body a decedent's part has been or is intended to be transplanted". For the purpose of this paper, the term "recipient" shall be understood as an entity qualified to receive a body donation, e.g. a medical university.

¹⁸ See footnote 4.

¹⁹ See footnote 4: Section 2 (7).

²⁰ See footnote 4: Section 2 (19).

²¹ See footnote 4: Section 11 (1).

under 18 years of age), they can make a gift only in certain cases²². Other persons listed in Section 4 are: an agent (unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift), a parent of the donor (if the donor is an unemancipated minor) and the donor's guardian (meaning a "person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem"). There are also several ways of making anatomical gift before donor's death, that include authorizing certain statement or symbol to be imprinted on the donor's driver's license or identification card (such a statement or symbol indicates that the donor has made an anatomical gift), a will, and even any form of communication can be acceptable, but only if the donor suffers from a terminal illness or injury. In the last case, the statement of the individual must be addressed to two adults or more, including at least one disinterested witness, meaning someone other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of said individual, or another adult who exhibited special care and concern for them. According to Section 5, it is also possible for an entitled person to make a gift by filling out and signing²³ a donor card or other record, or by authorizing a statement or symbol mentioned before in a special database containing records of anatomical gifts (donor registry). What's interesting is that revocation, suspension, expiration, or cancellation of a driver's license or ID card, as well as probation or invalidation of the will does not invalidate the gift.

According to the Revised AUGA, the body or part of a deceased individual (decedent) may also be the source of an anatomical gift. Apart from an agent of the decedent mentioned in Section 4, persons entitled to make a gift after the death of an individual are as follows: the spouse, adult children, parents, adult siblings, adult grandchildren and grandparents of the decedent, as well as an adult who exhibited special care and concern for them. Moreover, the persons who were acting as the guardians at the time of death of the decedent, and any other person having the authority to dispose of their body, are also allowed to make such decision. Any member of the classes mentioned above has to be reasonably available, and the order in which they are listed in the Act is binding. If there is more than one member of the class, for example if there are three adult children or siblings of the decedent, one of them can make a gift only if there is no objection from another member of the class that they or the recipient of the gift knows about. Otherwise, such decision may be made only by a majority of the class' members that are reasonably available, for example, two out of three adult children or siblings of the decedent. Manner of making anatomical gift of decedents' body or part varies from the one indicated in Section 5, as it is possible only by signing a document of gift by authorized person or by their oral communication that has to be recorded.

It is clear that while completing the document of gift, the donor may indicate the purpose of their donation. Nevertheless, if there is more than one purpose declared in no particular order of

²² The Act states that the minor has to be „(A) emancipated; or (B) authorized under state law to apply for a driver's license because the donor is at least [insert the youngest age at which an individual may apply for any type of driver's license] years of age“.

²³ According to subsection (b) of Section 5: „If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must: (1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and (2) state that it has been signed and witnessed as provided in paragraph (1)“.

priority (1), or the donor expressed only a general intent to donate their body or its part without stating any particular purpose of such a gift (2), the donation must be used for transplantation or therapy. The gift may be also used for research or education in the first case, but only if it is not suitable for transplantation or therapy²⁴.

Another issue that can appear in the United States is the objection by one member of a class of persons who may make a donation of the decedent's body. As mentioned before, persons entitled to make this decision are, for example, the spouse or adult children of the decedent. Thus, if there are three adult children of the deceased person, then one of them can donate the body unless they know that another member objects. If there is an objection though, the gift may be made only by a majority of the class, e. g. two out of three adult children. Colorado, as well as other states, adopted UAGA solutions into their law, sometimes only with slight changes. As regards the aforementioned objection, the Colorado Revised Statutes (C.R.S.) remain unaltered²⁵. Interestingly, even though it is legally permitted, the Forensic Investigation Research Station in Grand Junction does not accept a body even if there is only one person who objects. The reason for that is to make sure that every interested party is at peace with the decision of donating the body of their loved ones.

2.2. BODY DONATION PROGRAM ON THE EXAMPLE OF THE FORENSIC INVESTIGATION RESEARCH STATION

When it comes to donating a body directly to a decomposition facility, it is necessary to complete and sign documents provided by a given facility. In Colorado, the Forensic Investigation Research Station provides Body Donation Packet for Living Donors and Body Donation Packet for Donating Deceased Individual. Both contain Body Donation Program Policy Document, Body Donation Form and Biological Questionnaire. One of the first aspects highlighted in their policy sheet is the fact that remains are not returned to the family when decomposition study is done²⁶. This is due to the fact that not only the bodies, but also the skeletons are extremely valuable to both research and teaching. Bones are used in, among others, osteology classes held at Colorado Mesa University. Students can learn about certain characteristics of the human skeleton, such as the shape of skull, length, and structure of different bones, or even about mechanical trauma that causes bone injury. This ultimately allows them to

²⁴ See footnote 4: Section 11 (d-f).

²⁵ Colorado Revised Statutes (2017 08 09), 15-19-209.

²⁶ However, it is worth noting that according to FIRS Document for Donation of Deceased Person, "If, at any time, the remains shall be claimed for burial by a person in a prior order of precedence to the person making this donation, then at their expense the Colorado Mesa University Forensic Investigation Research Station shall surrender the remains.";

<https://www.coloradomesa.edu/forensic-investigation-research-station/documents/2019-firs-body_donation_packet-for-donating-deceased-individual.pdf> [accessed 2024 05 16].

indicate physical features, origin, or age of the deceased. Through the signed BDP Policy Document, the facility reserves the right to refuse donations if the donor has suffered from diseases such as HIV, tuberculosis, or hepatitis, or if the body has been embalmed. This right also applies in case FIRS is at capacity. Moreover, before a donation is received by the facility, it should be determined by a coroner that no autopsy is needed. What is important is that FIRS declares to cover the costs of transportation up to 75 miles from Grand Junction, CO. Nevertheless, it is possible for people outside of this area to join the body donation program as long as they arrange the transportation of the body at their own expense. Biological Questionnaire, on the other hand, contains basic characteristics of the donor, such as sex, age, or race, but also details about their childhood, socio-economic status, history of residence, dental and medical history, having tattoos or piercing, or even information on recent weight loss or habitual activities. Picture of a donor may also help in facial reconstruction research as “a means of identifying unknown individuals can first be conducted on known individuals”²⁷.

3. BODY DONATION IN THE NETHERLANDS

3.1. LEGAL BASIS

In 1998, the Dutch government introduced a new solution in order to meet the demand for posthumous donors – registration system for organ and tissue donation preferences. Since then, each citizen who reached the age of 18 received a registration form regarding body donation. Originally, such form contained four alternatives: “(1) registration as a posthumous organ and tissue donor; (2) registration as a posthumous donor for specific organs and tissues; (3) registration as a non-donor; and (4) registration to leave the decision to the next of kin or to a specific person”²⁸. However, on 1 July 2020, the amended Dutch Donor Act came into force. Pursuant to introduced changes, if an individual does not register their choice in the Donor Register, they will be considered as a potential donor (as their record will state “no objection to organ donation”²⁹). As a result of the amendment, the lack of response from a citizen is equivalent to giving permission for their organs and tissues to be donated to another patient after their death. However, the donation can happen only if someone dies in the intensive care unit of a hospital as their organs must still be suitable for transplantation³⁰. What is more, a doctor will always discuss the choice recorded in the Donor Register with the patient’s next of kin. The family generally has to confirm the fact that the deceased had no objection to donating organs and tissues. However,

²⁷ Body Donation Packet for Living Donors; <https://www.coloradomesa.edu/forensic-investigation-research-station/documents/2019-body_donation_packet.pdf> [accessed 2024 05 16].

²⁸ A. REUBSAET, J. BRUG, M.D. NIJKAMP, M.J.J.M. CANDEL, J.P. VAN HOOFF, H.W. VAN DEN BORNE, “The impact of an organ donation registration information program for high school students in the Netherlands”, *Social Science & Medicine*. 60 (7) (2005), p.1479-1486.

²⁹ <<https://www.cbs.nl/en-gb/news/2023/43/10-7-million-adults-have-registered-their-organ-donation-choice>> [accessed 2024 05 16].

³⁰ <<https://www.transplantatiestichting.nl/page/frequently-asked-questions>> [accessed 2024 05 16].

if they can convincingly show that the deceased did not want to be an organ donor, the organ donation will not be pursued.

The main purpose of organ and tissue donation is transplantation. Parts of a body may exceptionally be used for scientific research, for example, if they are found to be damaged or diseased. Nonetheless, it is a completely different procedure than donating an entire body for such purpose. Whole body donations are permissible under the Dutch Burial and Cremation Act³¹. According to its Article 67, a body can be donated to science only if the deceased expressed such intent prior to their death³². It is also possible to make a whole body donation by a proxy of the deceased person, “however, most medical schools are reluctant to accept such donations unless the intentions of the donor can be verified beyond reasonable doubt (despite the absence of written consent)”³³. The autonomy of an individual seems to be crucial in terms of body donation issues. This is why the possibility of making a decision for someone else is very limited. Next of kin may decide on organ and tissue donation preferences of their family member only if they are not yet registered in the Donor Register and they are under the age of 18 or just turned 18, or if they are newcomers to the Netherlands³⁴. Moreover, on the Dutch governmental website dedicated to transplantation there is an answer to the question whether a partner or family of the donor can object to the donation. The answer is: “No. Family members cannot change your choice just like that. The doctor will almost always honour the choice you made in the Donor registry. That is what you wanted. If there is a very good reason, a doctor may decide differently.”³⁵

Even though the organ and tissue donation issue is addressed by the Dutch law in great detail, whole body donation regulation still remains insufficient. It is a well known fact that people can donate their entire bodies for scientific or educational purposes, but in order to do so, it is required to register with an anatomical institute of one of the universities in the Netherlands³⁶. If an individual indicated in the Donor Register that they wish to donate their organs or tissue, such decision takes priority over whole body donation³⁷. The manner of making a whole body donation is by providing a hand-written consent before death³⁸ (which of course can be amended or revoked), but universities may also determine their own additional requirements, such as completing and signing body donation documents. Nevertheless, as some authors rightly point

³¹ Wet op de lijkbezorging <<https://wetten.overheid.nl/BWBR0005009/2022-01-01>> [accessed 2024 05 16].

³² R.-J. OOSTRA, T. GELDERMAN, W.J. M. GROEN, H. G. UITERDIJK, E.L.H. CAMMERAAT, T. KRAP, L. S. WILK, M. LÜSCHEN, W. E. MORRIËN, F. WOBEN, W.L.J.M. DUIJST, M.C.G. AALDERS, “Amsterdam Research Initiative for Sub-surface Taphonomy and Anthropology (ARISTA) - A taphonomic research facility in the Netherlands for the study of human remains”, *Forensic Science International*. 317 (2020), p. 2.

³³ Id.

³⁴ <<https://www.government.nl/topics/organ-tissue-donation/new-donor-act-active-donor-registration>> [accessed 2024 05 16]

³⁵ See footnote 29.

³⁶ <<https://www.lichaamsdonatie.info/>> [accessed 2024 05 16].

³⁷ However, some universities may accept a body that has undergone a donation procedure; <<https://www.government.nl/topics/organ-tissue-donation/question-and-answer/donation-body>> [accessed 2024 05 16].

³⁸ See footnote 30: Article 19.

out, the permissible scope of using donated bodies is unclear and there is yet no mechanism to monitor its course and validity³⁹.

3.2. BODY DONATION PROGRAM ON THE EXAMPLE OF THE AMSTERDAM RESEARCH INITIATIVE FOR SUB-SURFACE TAPHONOMY AND ANTHROPOLOGY

Even though there are a few anatomical institutes in the Netherlands that may receive a whole body donation, the only facility conducting a decomposition research is the Amsterdam Research Initiative for Sub-surface Taphonomy and Anthropology (ARISTA) of the Amsterdam University Medical Center (UMC).

The manner of making a donation is by writing and signing a codicil that may include more specific details regarding the use of the donor's body. Firstly, it should be noted that, as the main purpose of such donation is the education of students, further training of doctors, and research, the body might be intended for anatomy classes or used for forensic research (so placed at the facility). If the donor doesn't consent to the second option, they can object to it in the codicil. In order to achieve mentioned objectives, UMC might want to obtain the medical history of a donor. It is also highly desirable for a university to share different research results with other scientists and medical professionals, especially given the fact that the research data is anonymised and thus does not reveal any personal information about the individual who donated their body. However, in both cases, the decision rests completely with the donor as they may refuse these options. UMC also recommends informing the family or a medical practitioner about making the donation, and aims to raise awareness of the consequences of it, such as limited time to say goodbye to the loved ones after they pass (as the body must be transported to the university within 24 hours after the death occurred, at the expense of the university) or the inability to arrange the funeral. The facility stipulates that they may reject a donation in several situations, e. g. the lack of space (although in such cases the body can be transferred to another anatomical institute willing to receive it, provided the donor consented to it), belated notice of the donor's death (over 24 hours), death abroad, extreme obesity, or severe mutilation of a body. Nonetheless, UMC states that giving consent to the biological-forensic research minimizes the risk of rejection⁴⁰. Furthermore,

³⁹ J.S. HOPSTAKEN, G.A.M. WIDDERSHOVEN, M.C. PLOEM, "Whole-body donation in the Netherlands: Current regulations and suggestions for improvement", *Nederlands Tijdschrift Voor Geneeskunde*. 164 (2020).

⁴⁰ The UMC brochure, addressing the topic of body donation, establishes that its biological-forensic research aims to explore what happens to the human body after death under various conditions. The UMC studies the rate and pattern of decomposition, taking into account the environmental factors and other processes affecting it. It is noted that such data may allow to determine the time and circumstances of the death and thus help solve criminal cases; <<https://medischebiologie.nl/wp-content/uploads/2023/02/folder-meest-gestelde-vragen-v4.pdf>> [accessed 2024 05 16]. Due to the fact that public knowledge on the subject of decomposition research is still insufficiently widespread, providing potential donors even with such a brief description of it may result in raising awareness of this issue among interested parties.

it should be noted that it is always possible to amend or revoke the decision of making a donation. In order to do so, the donor shall notify the university and provide them with the previous codicil. It can be then destroyed, and the person concerned may receive the written confirmation of, e. g., the withdrawal from the donation program.

UMC does not indicate the period for which a donated body can be used. It may last up to a few years, and after this time the remains are cremated anonymously. The ashes are then scattered in Lake IJssel, and thus cannot be returned to the donor's family. Moreover, the university bears the costs of both cremation of remains and disposal of ashes. Although it is not possible for the remaining relatives to attend these events, UMC arranges an annual commemorative meeting where the memory of the dead can be perpetuated⁴¹.

4. BODY DONATION IN POLAND

4.1. LEGAL BASIS

As mentioned in 1.1, a donation of a part of a body is regulated in the cell, tissue and organ recovery, storage and transplantation Act, while legal aspects of whole body donation can be found mostly in various ordinances of the Ministry. First of all, the Article 10 of the Cemeteries and Burial Act of January 31st, 1959, stipulates that the immediate family of the deceased person has the right to bury them. According to the legislator, the immediate family includes: the spouse, descendants, ascendants, collateral relatives up to the 4th degree of consanguinity, and relatives-in-law up to the 1st degree in the direct line. Moreover, anyone who voluntarily undertakes to bury the decedent is legally entitled to do it. What is important though, is that corpses not buried by the entities mentioned in this provision, may be donated to a medical university or other entities conducting research and teaching activities in the field of medical sciences, for the purpose of teaching and research. Such decision can be issued only by a competent county governor upon the request of a certain entity⁴², and it applies also to unclaimed bodies of persons deprived of liberty in prisons and detention centers⁴³, as well as foreigners placed in a guarded center or in a detention center for foreigners⁴⁴. Another way to donate a body for scientific

⁴¹ All the above details regarding body donation program of the Amsterdam UMC are based on the website: <<https://medischebiologie.nl/lichaamsdonatie/>> [accessed 2024 05 16] and the Department of Medical Biology (Medische Biologie, sectie Klinische Anatomie en Embryologie) brochure: <<https://medischebiologie.nl/wp-content/uploads/2023/02/folder-meest-gestelde-vragen-v4.pdf>> [accessed 2024 05 16].

⁴² The Cemeteries and Burial Act (1959 01 31, the Official Journal of Acts 1959/11/62), art. 10 (2).

⁴³ Ordinance of the Ministry of Justice on the treatment of bodies of persons imprisoned in penal institutions and detention centers (2010 07 07, the Official Journal of Acts 2010/123/839).

⁴⁴ Ordinance of the Ministry of Internal Affairs on the treatment of bodies of foreigners placed in a guarded center or in a detention center for foreigners (2015 01 22, the Official Journal of Acts 2015/179).

purposes is issuing a written statement before death by the donor themselves⁴⁵. In both cases, the cost of transporting a body must be covered by the recipient of a donation, e. g. a university⁴⁶.

The aforementioned act stated that the procedure and conditions of donating bodies for scientific purposes will be regulated in a proper ordinance of the Ministry. On July 30th, 2009, the Minister of Health issued such regulation. This ordinance, that came into force on 29th of August of the same year, repeats the provisions that have already appeared in the Cemeteries and Burial Act. As to the necessary request that has to be submitted by an entity in order to receive a donation, the only aspect that has been specified in the ordinance is that the application must be reasoned⁴⁷. What is more, according to the Ordinance, the donation of human bodies for scientific purposes shall be carried out in a manner that ensures the dignity of the deceased⁴⁸, and thus in the terms of transportation and storage of corpses, the recipient of the donation is also subject to another of the Ministry's orders⁴⁹.

The mentioned legal act and several ordinances of the Ministry refer to whole body donation issues only to a very limited extent. Most decisions are therefore left to be determined by medical universities in their body donation program policies and internal statutes.

4.2. POLISH BODY DONATION UNIVERSITY PROGRAMS

In Poland, a whole body donation for educational and scientific purposes can be received solely by a public university⁵⁰. Such universities establish their own rules concerning, among others, the manner of making a donation by interested persons or the conditions for accepting a body for education and research. However, they are often identical. Some of the most common provisions included in body donation programs of Polish medical universities are as follows⁵¹:

The purpose of the body donation program is to obtain **aware** donors;

After the death of the donor, their body is used for **the purpose of teaching and ongoing scientific research**;

The donation is **voluntary and gratuitous**, and may not be the source of any financial benefit or its promise to the donor or those who execute their will after death;

The manner of making a donation is by **signing a statement** by the donor during their life (sometimes it is required that the donor's signature must be **certified by a notary**);

The donor **indicates the persons required to notify the recipient** of the donation **about the death of the donor**;

⁴⁵ Id., art. 10 (6).

⁴⁶ See footnote 14: art. 10 (7).

⁴⁷ The Ordinance of the Ministry of Health on the procedure and conditions of donating bodies for scientific purposes (2009 30 07, the Official Journal of Acts 2009/129/1067), §2. 1. (2).

⁴⁸ Id., §3. 1.

⁴⁹ Id., §3. 2. See: The Ordinance of the Ministry of Health on the treatment of human bodies and remains (2001 12 07, the Official Journal of Acts 2001/153/1783).

⁵⁰ See footnote 19: §1 (1).

⁵¹ See for example: <<https://katedra-anatomii.cm-uj.krakow.pl/cm/uploads/2023/05/PROGRAM-SWIADOMEJ-DONACJI.pdf>> [accessed 2024 05 12]; <<http://anpraw.umw.edu.pl/donacja>> [accessed 2024 05 12].

The donor **may revoke the donation at any time** by making an appropriate statement.

As mentioned before, universities are legally obliged to cover the costs of collecting and transporting donated bodies. This is why some of them decide to include in their BDP a provision stating that the accepted territorial scope of making and receiving donation covers only selected voivodeships⁵². Pomeranian Medical University in Szczecin specifies that: “The donor may be a person with Polish citizenship and residing in the territory of the Republic of Poland. Polish citizens living in other EU countries can be donors, but the university does not provide or cover the costs of transporting the bodies. The university covers the cost of transportation within the territory of the Republic of Poland up to 100 km”⁵³.

Universities may reject the donation in certain cases, listed in their BDPs. Some of them are: advanced decomposition of a body, diagnosis of HIV or hepatitis of any kind, autopsy performed on a body, or cases of death that took place abroad, but (less frequently) also cases of suicide or limb amputation⁵⁴. What is interesting is that the Wrocław Medical University has stipulated in their BDP that the donation might be denied if at the time the university does not have adequate conditions to store the body with dignity⁵⁵. BDPs also specify the duration of the research or dissection, which usually lasts from 3 to 6 years. After this time, universities arrange collective funeral. Some may state that, for example: “the burial includes cremation of the body or burial in a coffin at the municipal cemetery - in accordance with the Donor’s wishes (...). The funeral ceremony is non-religious.”⁵⁶. On the other hand, it is also possible that “at the request of a member of the Donor’s family to bury the body in a location other than indicated [above], the requester will be obliged to cover the costs of transporting the body to the burial place, as well as the costs of the burial itself. The Medical University will only cover the costs of possible cremation of the body (...)”⁵⁷. Others declare that: “the university provides a burial at its expense, according to the Donor’s religion (...). The Donor’s family will be notified about the funeral, unless the Donor has decided otherwise. Academic community participates in the funeral ceremony.”⁵⁸. Often there is also a possibility of placing the donor’s name on a commemorative plaque, if that is what they wanted during their life.

In many cases, the donor’s wishes seem to be crucial for the recipient of the donation, yet still BDPs of some medical universities, as well as their practices, show that sometimes the decision made by the donor’s family is more important than the one the donor made during their life. One of Polish universities states in their BDP policy that in the absence of consent from the donor’s family, they are obliged to cover the costs of transport and preservation of the body⁵⁹.

⁵² <<http://donacja.sum.edu.pl/uploaded/Program.pdf>> [accessed 2024 05 12]; §4 (1).

⁵³ <https://www.pum.edu.pl/images/uploads/studia/jednostki/wmis/WMiS_KiZAP/22-121-Program_%C5%9Awiadomej_Donacji.pdf> [accessed 2024 05 12].

⁵⁴ See footnote 24: §6. 1. (3; 5).

⁵⁵ <<http://anpraw.umw.edu.pl/donacja>> [accessed 2024 05 12]: §4.

⁵⁶ Id: §6. 4.

⁵⁷ See footnote 27: §6. 5.

⁵⁸ Order No. 88/2008 of the Rector of the Medical University of Lublin of November 21, 2008, on the introduction of the Conscious Donation Program at the Medical University of Lublin; <<https://umlub.pl/uczelnia/struktura-organizacyjna/jednostki-um/i-wlzos/program-swiadomej-donacji/>> [accessed 2024 05 12].

⁵⁹ See footnote 27: §5.

Even if not expressed explicitly, it is in fact proof that the donor's autonomy may experience certain limitations. Other universities also tend to reject the donation if the family objects. Moreover, there always has to be someone to inform a certain entity about the death of the donor⁶⁰, thus there might be cases when the donor dies and, as their family doesn't accept their decision about donating their body to science, they don't fulfill the will of the deceased person. Unfortunately, there is yet no mechanism to avoid that.

5. SOCIAL AWARENESS, RELIGION & AUTONOMY

Body donation laws and practices in the countries referred to herein diverge considerably. Some similarities might also be visible, although certain factors, e. g. the culture of a given country, increase the differences between them. Polish law regarding body donation is noticeably limited. Despite the fact that organ and tissue donation has been regulated in the cell, tissue, and organ recovery, storage, and transplantation Act, whole body donation legislation in Poland still remains insufficient. Nevertheless, even if Poland were ever to introduce significant changes to the law, it would not necessarily impact public awareness regarding this matter. In 2005, the Public Opinion Research Center in Poland conducted a public opinion research on a group of over 1000 people, asking them, among others, about their legal knowledge regarding organ and tissue donation for the purpose of transplantation. The research report from October 2005 (BS/161/2005) indicates that: "Polish people are not aware about organ transplantation regulations in our country - nearly half (45%) admit that they are not familiar with this issue, and almost a third (31%) mistakenly point to similarities with German regulations⁶¹. In addition, one in seven respondents (14%) is unable to respond to this issue, and therefore also does not know what the regulations are. Only one in ten Polish people (10%) correctly indicated the similarity of Polish legal solutions to Austrian regulations⁶²."⁶³. The research has been repeated in 2016 (119/2016), and the results revealed that the "legal awareness of organ procurement from the deceased is low, but has increased slightly in recent years. One in five adults (20%) are now aware that Poland operates under presumed consent regime, which is (...) the most since we asked about it (i.e. since 2005). The rest either have no idea about this issue (46%, including those answering "it's hard to say" - 51%), or give an incorrect answer (29%). Knowledge on this subject depends, to some extent, on the level of education - people with higher education are better informed than average (33% of them gave the correct answer), while respondents with primary

⁶⁰ For example, BDP of the Jagiellonian University in Cracow included the following provision in the donor's statement: "The following persons are informed of my will contained in this declaration: 1. ... (...) 2. ... (...) and they have undertaken to immediately notify the Department of Anatomy of the Jagiellonian University Medical College [about the death].";

<<https://katedra-anatomii.cm-uj.krakow.pl/cm/uploads/2023/12/Oswiadczenie-woli.pdf>> [accessed 2024 05 16].

⁶¹ Meaning that it is necessary to give consent prior to death to transplant organs or tissue (informed consent).

⁶² Meaning that the lack of objection during one's life is enough to transplant organs or tissue (presumed consent).

⁶³ <https://www.cbos.pl/SPISKOM.POL/2005/K_161_05.PDF> [accessed 2024 05 17].

or lower secondary education are less knowledgeable (9% gave the correct answer).⁶⁴ What was also noted as a result of executing the survey, is that “(...) education influences, to some extent, both the attitude towards the organ procurement from the deceased and the preferences regarding the law regulating proceedings in this area: better educated people are less likely to declare their opposition to organ donation and, at the same time, are more likely to be in favor of presumed consent, while the less educated are more likely to be reluctant about explantation and at the same time more likely to support the concept of informed consent.”⁶⁵ Perhaps it would be beneficial for Poland to introduce similar legal solutions that can be found in the Netherlands. As mentioned in 3.1, the Netherlands faced the issue of people’s unwillingness to become donors in the past⁶⁶. However, for over 20 years now, the Donor Register has been used in order to increase the number of posthumous donors. Currently, even whole body donations, which are not included in the Donor Register, are much more common. For example, Amsterdam UMC stipulates the possibility of rejecting a donation in case the donor dies within 6 months of registration in their BDP, due to significant increase in registrations⁶⁷. Although it is impossible for us to prove that the growth in interest regarding body donation was caused by the introduction of a new legal framework, nevertheless, these changes are noticeable. It is thus worth noting that amending the law itself does not necessarily affect people’s individual opinions and preferences as to donating their bodies or parts, but undeniably results in raising social awareness of the possibility of both objecting and consenting to body donation, whether it is organ and tissue or whole body donation. The need to educate people is particularly crucial considering the fact that in Poland, the human body is considered almost sacred. Even though organ and tissue donation for the purpose of transplantation is perceived positively, the taphonomy research may raise some concerns in Polish society. For example, in 2013, “The Human Body Exhibition” was investigated by the District Prosecutor’s Office of one of Polish cities. The exhibition presented anatomical features of human bodies that were previously preserved, which raised controversies and resulted in pressing charges for alleged profanation of corpses under Article 262 of the Polish Penal Code⁶⁸. Apart from anatomy classes held at medical universities, using human bodies and remains for other educational and scientific purposes may still be questionable. Religious beliefs might be one of the reasons for this. However, as Zdilla and Balta rightly point out, “varied religious beliefs may influence body donation in varied ways”⁶⁹. On the one hand, a study executed in Greece in 2011 on 1700 individuals, showed a correlation between the unwillingness to donate a body for

⁶⁴ <https://www.cbos.pl/SPISKOM.POL/2016/K_119_16.PDF> [accessed 2024 05 17], p. 12-13.

⁶⁵ Id., p. 12.

⁶⁶ See footnote 26.

⁶⁷ <<https://medischebiologie.nl/lichaamsdonatie/>> [accessed 2024 05 16].

⁶⁸ Polish Criminal Code (1997 06 06, the Official Journal of Acts 1997/88/553), Art. 262. “Profaning human remains, ashes or a burial site. § 1. Anyone who profanes a corpse, human ashes or burial site is liable to a fine, the restriction of liberty or imprisonment for up to two years. § 2. Anyone who robs a corpse, grave or another burial place is liable to imprisonment for between six months and eight years.”

⁶⁹ M. J. ZDILLA, J. Y. BALTA, “Human body donation and surgical training: a narrative review with global perspectives”, *Anatomical Science International*. 98 (2023), p. 5.

educational or scientific purposes and strong religious beliefs⁷⁰. In 2015, on the other hand, results of a study conducted on the basis of completed BDP documents of the Medical University of Silesia in Katowice, Poland, regarding declared donors' characteristics, indicated that over 76% of donors were Catholics, and just under 20% of respondents declared to be atheists⁷¹. Authors discussed these results as follows: “A high percentage of Catholic donors in our cohort, together with other beliefs being declared by less than 5% of the individuals and balance between practicing and non-practicing believers reflects the religious structure of the Polish society. However, the number of Catholic donors was 10% lower than in the population, which, coupled with a large number of declared atheists among the registrants, might prove the assumption of impact of religious beliefs and traditional burial ceremonies on the motivation to donate (...). This finds its reflection in the lack of donated bodies in some cultures (...). Worth mentioning is also the fact that our center, like many other anatomy schools (...), organizes and hosts annual commemorating and burial ceremonies. This is a signal to the donors and their families how valuable their gift is. It also might convince some of the more religious donors that their decision does not contradict their beliefs.”⁷² The last part of the quoted observation made by the authors is in fact a very strong argument. It should be highlighted that, in terms of Christianity (or Roman Catholicism, particularly with regard to Poland), the main impediment as to the body donation seems to be not the ethical doubts, but various traditions deriving from the religion, i. e. the need (and the right) to bury the dead, or going even further – the need of mourning as an instinctive psychological response to death of a loved one, and thus the grief⁷³. It is therefore crucial to guarantee the family of the deceased the possibility to say proper goodbyes.

5.1. PRESUMED CONSENT *versus* INFORMED CONSENT

Assuming that it would be possible to raise social awareness in regard to body donation matters, and that religious beliefs are not necessarily an obstacle, the most significant concern is the lack of autonomy of an individual in the Polish law. In each of the analyzed countries, it is possible for other people (usually family members) to influence one's decision about donating their body:

In the US, a donation may be made by entitled persons **unless** there was an explicit objection by the donor prior to their death;

In the Netherlands, a donation may be made by entitled persons **only if** intentions of the donor can be verified beyond reasonable doubt;

In Poland, entitled persons may **always** object to a donation.

⁷⁰ H. HALOU, A. CHALKIAS, D. MYSTRIOTI, N. IACOVIDOU, P. V.S. VASILEIOU, T. XANTHOS, “Evaluation of the willingness for cadaveric donation in Greece: A population-based study”, *Anatomical Sciences Education*. (2012).

⁷¹ G. BAJOR, W. LIKUS, P. KUSZEWSKI, K. KOSTRO, A. ŁOŚ, P. KŁAKUS, “‘*Mortui Vivos Docent*’ or Who Gives His Body to Science? The Analysis of the Personal Questionnaires of Polish Donors in the Conscious Body Donation Program”, *PLOS ONE*. 10(3) (2015), p. 6.

⁷² *Id.*, p. 7.

⁷³ P. MAJER “Pogrzeb symboliczny po donacji zwłok na cele naukowe – aspekty prawnokanoniczne”, *Annales Canonici*. 12 (2016), p. 91-114.

However, as shown above, these possibilities to decide on someone else's behalf have a completely different character when it comes to whole body donation. The first (American) solution resembles the model of presumed consent, as only an explicit objection prior to the death of an individual may prevent their family from donating their body to, for example, a decomposition facility. Undoubtedly, from among countries indicated herein, the US law gives the highest decision-making authority to persons other than the donor. Nevertheless, both willingness and motives for donating the deceased relative may vary significantly depending on a country, its culture, tradition, history, and political-economic system. According to the National Funeral Directors Association (NFDA) 2023 Member General Price List Study, the median costs of a funeral varies between \$6,280 and \$8,300 (depending on whether it is a funeral with burial or cremation, and not including “interment in a cemetery, monument or grave marker costs, or cash-advance charges, such as for flowers or an obituary”)⁷⁴, thus donating a body to science may be an alternative for those who are unable to cover such costs.

As for the whole body donation in the Netherlands, the concept of informed consent (or ‘opt-in’) was adopted. It is legally permissible for the family to donate a body of their loved one for scientific or educational purposes, but, as previously highlighted, anatomical institutes are reluctant to receive such donations unless the intentions of the deceased can be verified beyond reasonable doubt. This, however, does not limit the concept of informed consent at all. It makes it possible to respect the autonomy of those who have not managed to enter a BDP, but have declared their intentions to the family. As Février and Gay point out, “PC [presumed consent] has always been perceived as the best system for society in terms of organ donations whereas IC [informed consent] is supposed to be more ethical. However, in both systems, the family has a say (...). The difference between both systems resides in the way an individual can commit to his/her will, eventually against the opinion of his/her family.”⁷⁵

To summarize the Polish legislative framework, it should be noted that the presumed consent model applies only to organ and tissue donation. If an individual wants to donate their whole body to a university, they must register in a body donation program. This might resemble the informed consent system, nonetheless, the Cemeteries and Burial Act allows the county governor to make a donation to science under certain conditions, and unlike in organ and tissue donation cases, there is no possibility to object to it. This particular legislator's decision seems to have no objective nor reasonable justification. Moreover, whole body donation in Poland is rebuttable, meaning that the family of the deceased can undermine their will by objecting to the donation. Such state of affairs unfortunately seems to be commonly accepted as most medical universities tend to respect the wishes of the donor's relatives instead of those the donor expressed prior to their death. If a Polish citizen can make a valid declaration of intent regarding, e. g. money or property, why cannot they make such decisions when it comes to the destination of their own bodies after death? Alas, this problem concerns not only whole body donation, but also any wishes, such as the funeral rite or burial place, that may not be respected at all.

⁷⁴ NFDA News release of December 08, 2023; <<https://nfda.org/news/media-center/nfda-news-releases/id/8134/2023-nfda-general-price-list-study-shows-inflation-increasing-faster-than-the-cost-of-a-funeral>> [accessed: 2024 05 19].

⁷⁵ P. FAVRIER, S. GAY, “Informed Consent Versus Presumed Consent: The Role of the Family in Organ Donations” *SSRN Electronic Journal* (2004); <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=572241> [accessed: 2024 05 19].

CONCLUSIONS

As pointed out at the beginning, authors of this paper aim to assess the viability of a decomposition facility in Poland. The thorough analysis of three different legal frameworks allowed to identify inconsistencies and disadvantages of applicable Polish law and draw some initial conclusions as to possible changes therein. To summarize, the following issues shall be highlighted:

1. The Polish ordinance of the Ministry regarding whole body donation is extremely limited as it mostly repeats the content from the Cemeteries and Burial Act;
2. The Polish ordinance of the Ministry regarding the treatment of corpses and human remains does not specify the permissible scope of research conducted (actions performed) on corpses by recipients of whole body donations;
3. There is a significant limitation of one's autonomy as, firstly, it is not possible for an individual to object to the donation of the body for scientific purposes made by the county governor under certain conditions, and secondly, the family of an individual who donated their body to a university prior to death may revoke this decision;
4. The fact that each university may regulate the whole body donation matters differently results in inconsistencies as to the treatment of the donor's body, e. g., the manner of burying the deceased after the completion of research or anatomy classes (as some universities provide only a non-religious burial, while others let the donor decide about the funeral rite and burial place, even if it is at the donor's expense);
5. Different models of consent have been adopted in Polish law regarding either organ and tissue donation (presumed consent) or whole body donation (informed consent) laws, and the society is profoundly unaware thereof;
6. Authors believe that, in order to address the above mentioned problems properly and therefore establish appropriate conditions for Polish taphonomy research in the future, it is necessary to create a new and more detailed law concerning whole body donation issues. Some of the aspects that would require a particular attention in this matter are as follows:
 - a. amending or revoking the donation should be possible only for the person who made it, thus the family of the donor could not influence their decision;
 - b. if it is possible for an individual to object to organ and tissue donation, it should be also possible to object to the potential whole body donation made by a county governor upon the request of a certain entity in cases where the deceased has not been buried by the persons listed in the Cemeteries and Burial Act;
 - c. manner of making a whole body donation should be unified in order to avoid possible violations of one's autonomy, for example, by introducing a requirement to certify the donor's signature by a notary.
7. It also needs to be highlighted that in order to assess the viability of a decomposition facility in Poland, as well as in other countries, it is necessary to address not only the insufficiency or malfunction of law, but also the social perception of both the taphonomy

research and academia itself. It is entirely understandable that people might worry about the location and visibility of facilities in question, but, as the Authors' visit at the Forensic Investigation Research Station proved, these are only technical concerns. If people put more trust in academia, they may recognize the scientific and practical value of such research initiatives. And even if this trust is limited, it is not necessarily a weakness. Establishing certain control mechanisms or/and appointing an independent controlling authority would ensure that ethical and quality standards are met, and verify the validity of the study conducted. Despite public concerns or misperception about taphonomy research, it is necessary to emphasize that it should and actually is conducted with huge respect and due regard to the dignity of the human body and remains, as well as with profound gratitude to people who donate their bodies to science.

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KŪNO DONORYSTĖS ĮSTATYMAI IR PRAKTIKA BŪSIMŲ EUROPOS TAFONOMIJOS TYRIMŲ KONTEKSTE

SANTRAUKA

Šiame straipsnyje aptariama pasirinktų šalių, atliekančių kūno irimo tyrimus, kūno donorystės įstatymai ir praktika, palyginant Jungtinių Amerikos Valstijų ir Nyderlandų, kur vykdomi tokie tyrimai, bei Lenkijos, kurioje tokie tyrimai vis dar yra neteisėti, teisinį reguliavimą. Straipsnyje taikomas formalusis-dogmatinis metodas, atliekant tiek teisės aktų, tiek antrinių šaltinių tyrimus.

2023 metais autorės atliko preliminarų tyrimą Teismo tyrimų stotyje (Forensic Investigation Research Station; FIRS), Grand Džankšene, Kolorado valstijoje, siekdamas įvertinti kūno irimo tyrimų įstaigos steigimo Lenkijoje galimybes. Tyrimo metu jos nagrinėjo įvairius teisinius sprendimus, susijusius su viso kūno donoryste, siekdamas išryškinti jų stipriąsias ir silpnąsias puses ne tik būsimų tafonomijos tyrimų, bet ir asmens autonomijos kontekste. Kiekvienoje straipsnio dalyje išanalizuota teisiniai pagrindai ir įvairių universitetų kūno donorystės programos (body donation programs; BDP).

Pirmojoje straipsnio dalyje pateikta bendros organų ir audinių donorystės, taip pat viso kūno donorystės samprata. Antroji dalis skirta kūno donorystei Jungtinėse Valstijose, kurioje pristatoma Vieningo anatominio dovanojimo akto su pakeitimais (Revised Uniform Anatomical Gift Act) bei FIRS kūno donorystės programos analizė. Trečiojoje dalyje nagrinėjami kūno donorystės įstatymai Nyderlanduose ir Amsterdamo tafonomijos ir antropologijos tyrimų iniciatyvos (Amsterdam Research Initiative for Sub-surface Taphonomy and Anthropology; ARISTA) kūno donorystės programa. Ketvirtojoje dalyje pristatomi Lenkijos kūno donorystės įstatymai, tokie kaip Kapinių ir laidojimo įstatymas, ir pasirinktų ministerijos nutarimų nuostatos, taip pat pateikiama medicinos universitetų BDP bendra charakteristika ir dažniausios nuostatos.

Galiausiai, palyginus preziumuoto ir informuoto sutikimo teises sistemas, daroma išvada apie kūno donorystės įstatymų Lenkijoje (ne)pakankamumą ir pabrėžiama būtinybė didinti visuomenės informavimą tiek kūno donorystės, tiek tafonomijos tyrimų klausimais.

REIKŠMINIAI ŽODŽIAI

Viso kūno donorystė, irimo tyrimo centras, tafonomijos tyrimai, kūno donorystės programa.