



## Recommendation 1046 (1986)<sup>1</sup>

# Use of human embryos and fetuses for diagnostic, therapeutic, scientific, industrial and commercial purposes

Parliamentary Assembly

The Assembly,

1. Recalling its [Recommendation 934 \(1982\)](#) on genetic engineering, proposing a range of measures including in particular the recognition of the right to a genetic inheritance which should not be artificially interfered with except for therapeutic purposes ;
2. Considering that recent progress in the life sciences and medicine, in particular in animal and human embryology, has opened up remarkable new scientific, diagnostic and therapeutic prospects ;
3. Considering that, by the technique of fertilisation in vitro, man has achieved the means of intervening in and controlling human life in its earliest stages ;
4.
  - a. Considering that the exploitation of technological opportunities not only in science but also in medicine must be governed by clear ethical and social guidelines ;
  - b. Considering that future benefits from the advance of medical science and technology must be carefully assessed in deciding when, and how, and on what grounds, to restrict the exploitation of technological opportunities ;
  - c. Welcoming the contributions of the Council of Europe's ad hoc Committee of experts in the biomedical sciences, and of the European Medical Research Councils operating within the framework of the European Science Foundation ;
  - d. Noting the statement issued by nine European Medical Research Councils following the meeting convened in London on 5 and 6 June 1986 under the auspices of the European Science Foundation ;
5. Considering that, from the moment of fertilisation of the ovule, human life develops in a continuous pattern, and that it is not possible to make a clear-cut distinction during the first phases (embryonic) of its development, and that a definition of the biological status of an embryo is therefore necessary ;
6. Aware that this progress has made the legal position of the embryo and foetus particularly precarious, and that their legal status is at present not defined by law ;
7. Aware that adequate provisions governing the use of living or dead embryos and fetuses do not at present exist ;
8. Convinced that, in view of scientific progress which makes it possible to intervene in developing human life from the moment of fertilisation, it is urgent to define the extent of its legal protection ;
9. Having regard to the variety of ethical opinions on the question of using the embryo or the foetus or their tissues, and to the conflicts between values which arise ;

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1. Assembly debate on 19 and 24 September 1986 (13th and 18th Sittings) (see [Doc. 5615](#)[Doc. 5615](#), report of the Legal Affairs Committee, [Doc. 5628](#), opinion of the Committee on Science and Technology, and [Doc. 5635](#), opinion of the Social and Health Affairs Committee). Text adopted by the Assembly on 24 September 1986 (18th Sitting).



10. Considering that human embryos and fetuses must be treated in all circumstances with the respect due to human dignity, and that use of materials and tissues therefrom must be strictly limited and regulated (see appendix) to purposes which are clearly therapeutic and for which no other means exist ;
11. Convinced that the use of embryos or fetuses and the removal of their tissues for diagnostic and therapeutic purposes are only justified if the principles and conditions specified in the appendix to this recommendation are observed ;
12. Considering that any exclusively national regulation of the question runs the risk of being ineffective as any activity in this field could be transferred to another country which did not enforce the same regulations ;
13. Stressing the need for European co-operation,
14. Recommends that the Committee of Ministers :
  - a. call on the governments of the member states :
    1. to investigate the rumours about a trade in dead embryos and fetuses circulating in the media, and to publish the results ;
    2. to limit the use of human embryos and fetuses and materials and tissues therefrom in an industrial context to purposes which are strictly therapeutic and for which no other means exist, according to the principles set out in the appendix, and to bring their legislation into line with these principles or to enact rules in accordance therewith which should inter alia specify the conditions in which removal and use may be undertaken for a diagnostic or therapeutic purpose ;
    3. to forbid any creation of human embryos by fertilisation in vitro for the purposes of research during their life or after death ;
    4. to forbid anything that could be considered as undesirable use or deviations of these techniques, including :
      - the creation of identical human beings by cloning or any other method, whether for race selection purposes or not ;*
      - the implantation of a human embryo in the uterus of another animal or the reverse ;*
      - the fusion of human gametes with those of another animal (the hamster test for the study of male fertility could be regarded as an exception, under strict regulation) ;*
      - the creation of embryos from the sperm of different individuals ;*
      - the fusion of embryos or any other operation which might produce chimeras ;*
      - ectogenesis, or the production of an individual and autonomous human being outside the uterus of a female, that is, in a laboratory ;*
      - the creation of children from people of the same sex ;*
      - choice of sex by genetic manipulation for non-therapeutic purposes ;*
      - the creation of identical twins ;*
      - research on viable human embryos ;*
      - experimentation on living human embryos, whether viable or not ;*
      - the maintenance of embryos in vitro beyond the fourteenth day after fertilisation (having deducted any time necessary for freezing) ;*
    5. to provide appropriate sanctions to ensure the application of the rules enacted pursuant to this recommendation ;
    6. to create national registers of accredited medical centres authorised to carry out such techniques and to make use of them for scientific purposes ;
    7. to facilitate and encourage the creation of national multidisciplinary committees or commissions on artificial human reproduction involving scientific activities concerning genetic material, human embryos and fetuses - to guide and counsel the medical and scientific authorities, to follow and control the application of such techniques and to authorise specific projects in the absence of concrete legislation or regulation ;

- b.* continue to study the problems relating to the use of human embryonic and foetal tissue for scientific purposes and prepare, on the basis of the points mentioned in sub-paragraphs 14.A.ii to vii, a European convention or any other suitable legal instrument which would also be open to accession by non-member countries of the Council of Europe ;
- 15. Instructs its competent committees to prepare a report on the use of human embryos and fetuses in scientific research, taking into account the necessary balance between the principles of freedom of research and of respect for human life and other aspects of human rights.

## **Appendix Rules governing the use of human embryos or fetuses and the removal of their tissues for diagnostic and therapeutic purposes**

### **Diagnostic purposes**

1. No intervention for diagnostic purposes, other than those already authorised under national legislation, on the living embryo in vitro or in utero or on the foetus whether inside or outside the uterus shall be permitted, unless its object is the well-being of the child to be born and the promotion of its development.
2. The use of a dead embryo and foetus for diagnostic purposes (confirmation of a diagnosis in utero or search for the cause of a spontaneous termination of pregnancy) shall be permitted

### **Therapeutic purposes**

1. No intervention on the living embryo in vitro or in utero or on the foetus whether inside or outside the uterus shall be permitted unless its object is the well-being of the child to be born, that is, to facilitate its development and birth.
2. Therapy on embryos in vitro or in utero or on the foetus in utero shall not be permitted, unless it is for very clear and precisely diagnosed embryonic maladies, with grave or extremely bad prognosis, where no other solution is possible and therapy would offer reasonable guarantees of successful treatment of those illnesses.
3. It shall be forbidden to keep embryos or fetuses alive artificially for the purpose of removing usable material.
4. It would be desirable to create a list of those illnesses where therapy can be based on reliable means of diagnosis and reasonable guarantees of success. This list would be periodically updated to take account of new discoveries and scientific progress.
5. Therapy conducted on embryos and fetuses must never influence non-pathological hereditary characteristics, nor have racial selection as its aim.
6. The use of dead embryos or fetuses must be an exceptional measure, justified in the present state of knowledge by the rare nature of the illness treated, the absence of any equally effective therapy and a manifest advantage (such as survival) for the person receiving treatment ; it must comply with the following rules :
  - a. the decision to terminate pregnancy and the conditions of termination (date, technique, etc.) must under no circumstances be influenced by the possible or desired subsequent use of the embryo or foetus ;
  - b. any use of the embryo or foetus must be undertaken by highly qualified teams in approved hospitals or scientific centres supervised by the public authorities ; to the extent that national legislation foresees, these centres must possess multidisciplinary ethical committees ;
  - c. total independence between the medical team terminating the pregnancy and the team which might use the embryos or fetuses for therapeutic purposes must be guaranteed ;
  - d. embryos and fetuses may not be used without the consent of the parents or gamete donors where the latter's identity is known ;
  - e. the use of embryos, fetuses or their tissues for profit or remuneration shall not be allowed.