

HARMONISATION OF MEDICO-LEGAL AUTOPSY RULES IN EU - RECOMMENDATION No. R (99) 3

Part 1

RECOMMENDATION No. R (99) 3 was issued by the COMMITTEE OF MINISTERS of the European Union TO MEMBER STATES (Adopted by the Committee of Ministers on 2 February 1999 at the 658 meeting of the Ministers' Deputies), under the terms of Article 1 5.h of the Statute of the Council of Europe,

Premises:

- Considering that the aim of the Council of Europe is to achieve a greater unity between its members;
- Having regard to the principles laid down in the Convention for the Protection of Human Rights and Fundamental Freedoms and, in particular, the prohibition of torture or inhuman or degrading treatment or punishment, and the right to life;
- Conscious that it is normal practice for autopsies to be carried out in all Council of Europe member States to establish the cause and manner of death for medico-legal or other reasons or to establish the identity of the deceased;
- Considering the importance of compensation for victims and families in criminal and civil proceedings;
- Underlining the need for investigation, description, photographic documentation and sampling during medico-legal autopsy to follow primarily medical and scientific principles and simultaneously consider legal requirements and procedures;
- Conscious that the increasing mobility of the population throughout Europe and the world, as well as the increasing internationalisation of judicial proceedings, require the adoption of uniform guidelines on the way autopsies are to be carried out and on the way autopsy reports are to be established;
- Considering the Council of Europe Agreement on the Transfer of Corpses (European Treaty Series No. 80) and having regard to the difficulties often experienced by the receiving country when a dead body is repatriated from one member state to another;
- Aware of the importance of proper autopsy procedures, in particular with a view to bringing to light illegal executions, and murders perpetrated by authoritarian regimes;
- Underlining the need to protect the independence and impartiality of medico-legal experts, as well as to make available the necessary legal and technical facilities for them to carry out their duties in an appropriate way and to promote their training;
- Considering the importance of national quality control systems to ensure the proper performance of medico-legal autopsies;
- Underlining the need to strengthen international co-operation with a view to the progressive harmonisation of medico-legal autopsy procedures at a European level;
- Having regard to Recommendation 1159 (1991) on the harmonisation of autopsy rules adopted, at its 43-rd Ordinary Session, by the Parliamentary Assembly of the Council of Europe;
- Having regard to the Model Autopsy Protocol of the United Nations, endorsed by the General Assembly of the United Nations in 1991;
- Taking into account the "guide on disaster victim identification" adopted by the International Criminal Police Organisation (Interpol) General Assembly in 1997,

Recommendation to the governments of member states:

- to adopt as their internal standards the principles and rules contained in this recommendation;
- to take or reinforce, as the case may be, all appropriate measures with a view to the progressive implementation of the principles and rules contained in this recommendation;
- to set up a quality assurance programme to ensure the proper implementation of the principles

and rules contained in this recommendation.

Invitation to the governments of member states: to inform the Secretary General of the Council of Europe upon his or her request of the measures taken to follow up the principles and rules contained in this recommendation.

Principles and rules relating to medico-legal autopsy procedures

Scope of the recommendation

In cases where death may be due to unnatural causes, the competent authority, accompanied by one or more medico-legal experts, should where appropriate investigate the scene, examine the body and decide whether an autopsy should be carried out.

Autopsies should be carried out in all obvious or suspected unnatural death, even where there is a delay between causative events and death, in particular:

- a. homicide or suspected homicide;
- b. sudden, unexpected death, including sudden infant death;
- c. violation of human rights such as suspicion of torture or any other form of ill treatment;
- d. suicide or suspected suicide;
- e. suspected medical malpractice;
- f. accidents, whether transportation, occupational or domestic;
- g. occupational disease and hazards;
- h. technological or environmental disasters;
- i. death in custody or death associated with police or military activities;
- j. unidentified or skeletalised bodies.

Medico-legal experts must exercise their functions with **total independence and impartiality**. They should not be subject to any form of pressure and they should be objective in the exercise of their functions, in particular in the presentation of their results and conclusions.