

B. Brinkmann

## Harmonisation of Medico-Legal Autopsy Rules

Dear Reader,

There are two issues which I would like to address in this Editorial.

The first issue is the impact factor.

It is a great pleasure for me to announce that the International Journal has again been ranked by ISI as the leading journal in our field (legal medicine) with an impact factor of 1.812, although this figure has slightly decreased. Two things might have puzzled you. Firstly, the top journal actually listed in our field is new in our category and was possibly placed here mistakenly because there does not seem to exist interactions. Secondly, our Journal has erroneously been placed only in the pathology category and ISI have realised this mistake and will of course correct it.

The second issue concerns the harmonisation of the medico-legal autopsy rules.

Observations have been made and are still being made that violations of human rights such as homicides have occurred and did not become public because (unbiased and objective) medico-legal investigations were not performed. There have also been many observations that although performed, autopsies were extremely deficient and therefore inappropriate to elucidate crime.

The major reasons for such omissions have been or still are:

- Lack of adequately specialised doctors
- Inadequate provision in the respective country guaranteeing that suspicious cases are investigated
- Incomplete investigations including sampling and scheme of further investigations
- Lack of quality control
- Lack of independence of the investigating doctor, i.e. especially from state authorities
- Lack of an internationally binding protocol.

The Council of Europe has undertaken a great effort in that these problems have been realised and a well-defined framework has been established that should prevent such failures, at least in the future. This began with the adoption of Recommendation 1159 in the year 1991 (Brinkmann et al. 1994) which was followed by an initiative of the ECLM (European Council of Legal Medicine) to establish a harmonised protocol (Newsletter of the International Academy of Legal Medicine 1995, 1996). A commission was instituted by the European Council consisting of experts, lawyers and police representatives. This commission has elaborated the following protocol which has now been adopted by the European Council. The protocol consists of several sections. The scope of the recommendation is of importance because it specifies a diversity of case groups that must be investigated. Further chapters are dealing with scene investigation, autopsy physicians, identification, external and internal examination, autopsy report and specific procedures in selected case groups. This protocol is now going to be introduced into the member countries of the Council of Europe. It deals with minimum requirements and leaves a lot of flexibility relative to the uniqueness of case work and also relative to future developments of our science. It is nevertheless new because countries belonging to the Council of Europe must in the future guarantee that this recommendation will be observed and also adequately quality controlled. This document can also become an inaugural document for legal medicine in such countries where it is not yet, or no longer practised or where it is not practised on an adequate level.

I welcome the readers of this Journal to make comments and/or discuss. In the following, please find the complete protocol.

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This Recommendation has been adopted by the Committee of Ministers on 2 February 1999 at the 658th meeting of the Ministers' Deputies.

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**RECOMMENDATION No. R (99) 3  
OF THE COMMITTEE OF MINISTERS  
TO MEMBER STATES ON THE HARMONISATION  
OF MEDICO-LEGAL AUTOPSY RULES**

(Adopted by the Committee of Ministers on 2 February 1999 at the 658th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

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 43rd 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,

1. Recommends the governments of member states:
  - i. to adopt as their internal standards the principles and rules contained in this recommendation;
  - ii. 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;
  - iii. to set up a quality assurance programme to ensure the proper implementation of the principles and rules contained in this recommendation.
2. Invites 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.

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**Principles and rules relating  
to medico-legal autopsy procedures**

Scope of the recommendation

1. 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.
2. 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 transportational, 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.
3. 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.

## Principle I – Scene investigation

### a. General principles

1. In case of obvious or suspected unnatural death, the physician who first attended the dead body should report to the competent authorities, the latter deciding whether an examination should be carried out by a qualified medico-legal expert or by a physician familiar with medico-legal examination.

2. Particularly in cases of homicide or suspicious death, medico-legal experts should be informed without delay and, where appropriate, go immediately to the place where the body is found and have immediate access there. In this respect, there should be an adequate structure of co-ordination among all persons involved and, in particular, among judicial bodies, medico-legal experts and police.

### b. Examination of the body

#### 1. Role of the police

The following tasks, among others, should be carried out by police officers:

- a. record the identities of all persons at the scene;
- b. photograph the body as it is found;
- c. make sure that all relevant artifacts are noted, and that all exhibits, such as weapons and projectiles, are seized for further examination;
- d. in agreement with the medico-legal expert, obtain identification of the body and other pertinent information from scene witnesses, including those who last saw the decedent alive, where available;
- e. protect the deceased's hands and head with paper bags, under the control of the medico-legal expert;
- f. preserve the integrity of the scene and surroundings;

#### 2. Role of the medico-legal expert

The medico-legal expert should without delay:

- a. be informed of all relevant circumstances relating to the death;
- b. ensure that photographs of the body are properly taken;
- c. record the body position and its relation to the state of the clothing and to the distribution pattern of rigor mortis and hypostasis, as well as the state of post-mortem decomposition;
- d. examine and record the distribution and pattern of any blood stains on the body and at the scene, as well as other biological evidence;
- e. proceed to a preliminary examination of the body;
- f. except where the body is decomposed or skeletal, note the ambient temperature and deep-rectal temperature of the body, and estimate the time of death by recording the degree, location and fixation of rigor mortis and hypostasis, as well as other findings;
- g. make sure that the body is transported and stored in a secure and refrigerated location in an undisturbed state.

## Principle II – Autopsy physicians

Medico-legal autopsies should be performed, whenever possible, by two physicians, of whom at least one should be qualified in forensic pathology.

## Principle III – Identification

In order to ensure that proper identification of the body is carried out in accordance with the disaster victim identification guide adopted by the General Assembly of Interpol in 1997, the following criteria should be considered: visual recognition, personal effects, physical characteristics, dental examination, anthropological identification, finger prints and genetic identification.

### 1. Visual identification

Visual identification of a body should be carried out by relatives or persons who knew and have recently seen the decedent.

### 2. Personal effects

A description of clothing, jewellery and pocket contents should be recorded. These may assist correct identification.

### 3. Physical characteristics

Physical characteristic should be recorded through an external and an internal examination.

### 4. Dental examination

Where appropriate, the examination of teeth and jaws should be carried out by a dentist with medico-legal experience.

### 5. Anthropological identification

Whenever human material is skeletised or in an advanced stage of decomposition, an anthropological identification should be carried out, if necessary.

### 6. Fingerprints

Where appropriate, fingerprints should be taken by police officers. A close collaboration should exist between all experts involved.

### 7. Genetic identification

Where appropriate, genetic identification should be carried out by an expert in forensic genetics.

It is appropriate to take biological samples from the deceased in order to assist genetic identification. Measures should be taken in order to avoid contamination and guarantee appropriate storage of biological samples.

## Principle IV – General considerations

1. Medico-legal autopsies and all related measures must be carried out in a manner consistent with medical ethics and respecting the dignity of the deceased.

2. Where appropriate, the closest relatives should be given an opportunity to see the corpse.
3. Before beginning the autopsy, the following minimum rules should be applied:
  - a. record the date, time and place of autopsy;
  - b. record the name(s) of the medico-legal expert(s), assistant(s) and all other persons present at the autopsy with indication as to the position and role of each one in the autopsy;
  - c. take colour photographs or video, where appropriate, of all relevant findings and of the dressed and undressed body;
  - d. undress the body, examine and record clothing and jewellery, verify the correspondence between injuries on the body and clothing;
  - e. where appropriate, take X-rays, particularly in cases of suspected child abuse, and for identification and location of foreign objects.
4. Where appropriate, before beginning the autopsy, body orifices should be appropriately swabbed for the recovery and identification of biological trace evidence.
5. If the decedent was hospitalised prior to death, admission blood specimens and any X-rays should be obtained as well as hospital records.

## Principle V – Autopsy procedures

### I. External examination

1. The examination of the clothing is an essential part of the external examination and all findings therein are to be clearly described. This is especially important in those cases where the clothing has been damaged or soiled: each area of recent damage must be described fully and relevant findings are to be related to the site of injuries on the corpse. Discrepancies in such findings are also to be described.
2. The description of the body following an external examination must include:
  - a. age, sex, build, height, ethnic group and weight, nutritional state, skin colour and special characteristics (such as scars, tattoos or amputations);
  - b. post-mortem changes, including details relating to rigor and post mortem hypostasis – distribution, intensity, colour and reversibility – and putrefaction and environmentally induced changes;
  - c. findings on a primary external inspection and description which, if required, include sampling of stains and other trace evidence on the body surface and a reinspection after removal and cleaning of the body;
  - d. inspection of the skin of the posterior surfaces of the corpse;
  - e. description and careful investigation of the head and the facial orifices includes: colour, length, density and distribution of hair (and beard); nasal skeleton; oral

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- mucosa, dentition and tongue; ears, retro-auricular areas and external meati; eyes: colour of irises and sclerae, regularity and appearance of pupils, sclerae, conjunctivae; skin (presence and absence of petechiae to be described); if fluids have been evacuated from facial orifices, their colour and odour;
- f. neck: checking for excessive mobility, presence and absence of abrasions, other marks and bruising (including petechiae) over the entire circumference of the neck;
  - g. thorax: shape and stability; breasts; aspect, nipples and pigmentation;
  - h. abdomen: external bulging, pigmentation, scars, abnormalities and bruising;
  - i. anus and genitals;
  - j. extremities: shape and abnormal mobility, abnormalities; injection marks and scars; palmar surfaces, finger and toe nails;
  - k. material findings under fingernails.
3. All injuries, including abrasions, bruises, lacerations and other marks have to be described by shape, exact measurement, direction, edges, angles and location relative to anatomical landmarks. Photographs should be taken. Bite marks shall be swabbed, and casts made where necessary.
  4. Signs of vital reaction around wounds, foreign particles inside wounds and in their surroundings and secondary reactions, such as discolouration, healing and infections must also be described.
  5. The investigation of cutaneous and sub-cutaneous bruising may require local skin incision.
  6. Where appropriate, specimens from wounds must be removed for further investigations, such as histology and histochemistry.
  7. All signs of recent or old medical and surgical intervention and resuscitation must be described. Medical devices must not be removed from the body before the intervention of the medico-legal expert.
  8. A decision has to be taken at this stage as to the strategies of investigation and the necessity of documentation by X-rays and other imaging procedures.

### II. Internal examination

#### A. General

1. All relevant artifacts produced by the dissection and from sampling procedures, must be documented.
2. All three body cavities head, thorax and abdomen must be opened layer by layer. Where appropriate, the vertebral canal and joint cavities should be examined.
3. Examination and description of body cavities include: an examination for the presence of gas (pneumothorax), measurement of volume of fluids and blood, appearance of internal surfaces, intactness of anatomical boundaries,

external appearance of organs and their location; adhesion and cavity obliterations, injuries and haemorrhage.

4. The demonstration and dissection of the soft tissues and musculature of the neck have to be components of all medico-legal autopsies (see the paragraph concerning special procedures).

5. All organs must be examined and sliced following established guidelines of pathological anatomy. This includes opening of all relevant vessels, for example, intracranial arteries, sinuses, carotid arteries, coronary arteries, pulmonary arteries and veins, aorta and vessels of the abdominal organs, femoral arteries and lower limb veins. Relevant ducts have to be dissected, for example, central and peripheral airways, biliary ducts and ureters. All hollow organs have to be opened and their content described by colour, viscosity, volume (samples should be retained, where appropriate). All organs have to be sliced and the appearance of the cut surface described. If injuries are present, the dissection procedure may have to vary from the normal one: this should be appropriately described and documented.

6. All internal lesions and injuries must be precisely described by size and location. Injury tracks must be described in order to include their direction as regards the organ anatomy.

7. The weight of all major organs must be recorded.

## B. Detailed

### 1. Head

- a. Before opening the skull, the periosteum must be scraped off in order to display or exclude any fractures.
- b. The head examination procedure must allow the inspection and description of the scalp, external and internal surfaces of the skull and of the temporal muscles.
- c. The thickness and appearances of the skull and sutures, the appearances of the meninges, the cerebrospinal fluid (CSF), the wall structure and contents of cerebral arteries and sinuses must be described. The description of the bones must also include an examination of their intactness, including the connection between the skull and the first two vertebrae.
- d. In obvious or suspected head injury (for example, if a detailed examination is required or if autolysis or putrefaction is present) fixation of the whole brain is recommended before its dissection.
- e. Middle ears must be always opened and nasal sinuses where indicated.
- f. The soft tissue and skeleton of the face is dissected only in relevant cases, using a cosmetically acceptable technique.

### 2. Thorax and neck

The opening of the thorax must be performed using a technique which allows the demonstration of the presence of pneumothorax and the inspection of the thorax walls,

including the postero-lateral regions. In situ dissection of the neck must display the details of its anatomy.

### 3. Abdomen

The opening procedure of the abdomen must allow an accurate examination of all layers of the walls, including the postero-lateral regions. In situ dissection is necessary in certain cases, particularly for the demonstration of injury tracks and evacuation of fluids. Dissection of organs should observe anatomical continuity of systems, where possible. The whole intestine must be dissected and its contents described.

### 4. Skeleton

- a. The examination of the thoracic cage, the spine and the pelvis must be part of the autopsy procedure.
- b. Where appropriate traumatic deaths need a precise dissection of the extremities, possibly complemented by X-ray examination.

### 5. Special procedures

- a. If there is any suspicion of neck trauma, the brain and thoracic organs are to be removed prior to the dissection of the neck, to enable detailed dissection to take place in a bloodless field.
- b. If there is a suspicion of air embolism, pre-autopsy radiology of the thorax must be performed. The first stage of the autopsy in such a case must be a careful partial opening of the thorax and dislocation of the lower three-quarters of the sternum with the subsequent opening of the heart under water, allowing the measurement and sampling of escaping air or gas.
- c. For the demonstration of particular injury patterns, deviation from the normal procedure of dissection has to be accepted, provided that such procedures are specifically described in the autopsy report.
- d. The dissection in traumatic deaths must include a full exposure of the soft tissues and musculature on the back of the body. The same procedure must be applied to the extremities (so called "peel-off" procedure).
- e. In suspected or overt sexual assaults, the sexual organs are to be removed "en bloc" together with the external genitalia, rectum and anus, before they are dissected. Relevant swabs of orifices and cavities must be taken prior to this procedure.

### 6. Sampling

The scope of the sampling procedure is to be case-dependent. However, the following minimum rules should be applied:

- a. in all autopsies, the basic sampling scheme includes specimens from the main organs for histology and peripheral blood sampling (such as for alcohol and drug analyses and genetic identification), urine and gastric contents. All blood samples must be peripheral blood and not heart or thoracic;
- b. if the cause of death cannot be established with the necessary degree of certainty, sampling includes addi-

tional specimens and fluids for metabolic studies and thorough toxicology. This includes blood, vitreous humour, CSF, bile, hair samples and further relevant tissues;

- c. if death is related to physical violence, sampling includes the injuries, for example to determine wound age and any foreign materials in the wounds;
- d. if reconstructions are desirable, the removal of bones and osseous compartments may become necessary;
- e. if identification is the predominant aim, the removal of jaws and other bones may be necessary;
- f. if strangulation or the application of physical force to the neck is suspected or diagnosed, the entire neck structures, musculature and neurovascular bundles must be preserved for histology. The hyoid bone and the laryngeal cartilages must be dissected very carefully;
- g. biological samples must be collected in tightly closed jars, properly preserved and placed under seal and transported to the laboratory in perfect safety;
- h. certain specimens and fluids need to be sampled in a special way and analysed without delay.

#### 7. Release of the body

After a medico-legal autopsy has been carried out, medico-legal experts should ensure that the body is returned in a dignified condition.

#### Principle VI – Autopsy report

1. The autopsy report is as important as the autopsy itself, as the latter is of little value if the findings and opinions of the medico-legal expert are not communicated in a clear, accurate and permanent document. The autopsy report should be an integral part of the autopsy procedure and be drafted carefully.

2. The report should therefore be:

- a. full, detailed, comprehensive and objective;
- b. clear and comprehensible not only to other doctors, but also to non-medical readers;
- c. written in a logical sequence, well-structured and easy to refer to in various sections of the report;
- d. be in a legible and permanent form, with hard paper copy even if it is retained in electronic storage;
- e. be written in a discursive “essay” style;

3. When drafting an autopsy report, the following minimum content should be included:

- a. legal preface to fulfil statutory requirements, if needed;
- b. serial number, computer retrieval coding and International Classification of Disease Code (ICD) code;
- c. full personal details of deceased (including name, age, sex, address and occupation) unless unidentified;
- d. date, place and time of death, where known;
- e. date, place and time of autopsy;
- f. name, qualifications and status of medico-legal expert(s);
- g. persons present at the autopsy and their function;

- h. name of the authority commissioning the autopsy;
  - i. person(s) identifying the body to the medico-legal expert;
  - j. name and address of the medical attendant of the deceased;
  - k. a synopsis of the history and circumstances of the death, as given to the medico-legal expert by the police, judges, relatives or other persons, as well as information contained in the file, where available;
  - l. description of the scene of death, if attended by the medico-legal expert; reference should be made to the provisions contained in Principle I above;
  - m. external examination; reference should be made to the provisions of Principle V above;
  - n. internal examination by anatomic systems, together with a comment on every organ. Reference should be made to the provisions of Principle V above;
  - o. a list of all samples retained for toxicology, genetic identification, histology, microbiology and other investigations should be included; all such specimens should be identified and attested by the medico-legal expert according to the legal system of the state concerned, for continuity of evidence;
  - p. results of ancillary investigations, such as radiology, odontology, entomology and anthropology should be included, when such results are available;
  - q. one of the most important parts of the autopsy report is the evaluation of the significance of the accumulated results by the medico-legal expert. After termination of the autopsy, evaluation is usually provisional because later findings and later knowledge of other circumstantial facts can necessitate alteration and modification. Medico-legal experts must interpret the overall findings so that the maximum information and opinion can be offered. Also questions that have not been raised by the competent authority must be addressed if they could be of significance;
  - r. based on the final interpretation, the cause of death (in the International Classification of Disease should be given. Where several alternatives for the cause of death exist and the facts do not allow a differentiation between them, the medico-legal expert should describe the alternatives and, if possible, rank them in order of probability. If this is not possible, then the cause of death should be certified as “Unascertained”;
  - s. the report should be finally checked, dated and signed by the medico-legal expert(s).
4. The date of the autopsy and the date of the provisional report should never be more than a day or two apart. The date of the autopsy and the date of the final report should be as close together as possible.

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#### Appendix to Recommendation No. R (99) 3

Specific procedures (selected examples)

1. Constriction of neck (hanging, manual and ligature strangulation)

The examination of the scene where the body was found is extremely important: for example the presence of a chair or similar platform; fastening of the strangulation device; technique of tying of the knot; adhesive taping of hands and objects for trace evidence:

- Strangulation marks: depth, width, intermediate rings, direction, suspension point, raised ridges of skin, zones of hyperaemia, presence of duplicate strangulation marks; further specific neck injuries: dried excoriations due to slippage of the implement, marks due to textile weave pattern and structure, distribution of petechiae in the skin, bruising, scratch marks, blisters in the strangulation mark.
- Bleeding from facial orifices. Differences in widths of the pupils, localization of hypostasis, presence and distribution of congestion.
- Injuries due to convulsions, defensive injuries, injuries due to being held forcibly. Dissection of the soft tissues, of the musculature and of the organs of the neck in a bloodless field is essential.

## 2. Drowning / Immersion

Note carefully the following findings: foam at the mouth, cutis anserina, maceration, mud and algae, lesions due to water animals, injuries due to surroundings (for example rocks and ships), loss of nails, skin, localization of livor mortis.

Technique: sampling of gastric contents, precise description of the lungs (weight, measurement, extent of emphysema), sampling, lung fluid, liver and other tissues, for the possible demonstration of diatoms and other contaminants.

If required, sampling of drowning medium (for example river, bath water) should be carried out.

## 3. Sexually motivated murder

The inspection and documentation of the scene of crime, e.g. relative to the injury pattern, is especially important. All injuries must be photographed together with a scale. If required, the body surfaces must be investigated under UV light and taped. Search for and sampling of foreign biological material must include pubic hairs and secretions on the body surface as for instance originating from bites. Such material must be preserved carefully for DNA investigation and protected against contamination. “En bloc” dissection of the genital organs is strongly recommended. It is also necessary to proceed to the careful removal and sampling of material under the fingernails and control hairs.

## 4. Death from child abuse and neglect

State of nutrition and general care, thorough description and documentation of external injuries and scars, thorough examination for bone fractures (X-ray), must be evaluated.

Consider the removal of a variety of tissues: for example all injuries, regional lymph nodes in malnutrition, endocrine organs, immuno-competent tissues, specimens from different parts of the intestine.

## 5. Infanticide / still-birth

Special techniques of dissection are necessary to expose the falx cerebri and the tentorium cerebelli; describe the site of caput succedaneum; remove all fractures “en bloc”; investigate all bone centres of ossification (size and presence). Special care is to be applied to the thoracic organs: degree of inflation of the lungs, flotation test “en bloc” and “en detail”. However, the limitations of the flotation test must be appreciated. All malformations must be described. As regards abdominal organs, gas content of the intestine must be investigated. The umbilical cord and the placenta must be subject to morphological and histological examination.

## 6. Sudden death

A subdivision into three main categories relative to the further strategy after gross examination is useful:

- a. findings that obviously explain the sudden occurrence of death (for example haemopericardium, aortic rupture). Cases belonging to this category can usually be regarded as sufficiently solved;
- b. findings that could explain the death but allow other explanations. Cases belonging to this category necessitate the exclusion of, for example, poisoning and possibly histological proof of recent or chronic alterations relative to the cause of death;
- c. findings are either nil/minimal or do not explain the occurrence of death. Cases belonging to this category will usually require extensive further investigations. This is especially so with sudden infant death cases. In such cases a more comprehensive investigative scheme is essential.

## 7. Shooting fatalities

The following should be carried out:

- extensive account on the scene of the incident, of weapons involved, of types of bullets, of sites of “environmental” damage, of cartridge cases and of relative positions of persons involved;
- thorough examination of the clothing and description of relevant damage and careful sampling;
- thorough investigation and documentation of any blood (splashes) on the body surfaces (including clothing and hands);
- precise description of bullet entry and exit wounds relative to anatomical landmarks and distances from the soles of the feet and bullet tracks within the body;
- description of any impression marks of the muzzle;
- excision of uncleaned skin specimens surrounding entry and exit wounds;
- X-ray before and/or during autopsy (where necessary);
- determination of bullet tracks and their direction(s);
- final determination of direction(s) of fire, of the succession of shots, of intra-vital occurrence, of the victim’s position (s).

## 8. Death caused by explosive devices

- a. As well as evaluating the cause of death, autopsy is essential to assist in reconstructing the nature of the explosion and identifying the type and maker of the explosive device, especially in aircraft sabotage or other terrorist actions.
- b. Full X-ray of the body must be made to detect and localise any metallic objects, such as detonator components, which may lead to the identification of the explosive device.
- c. The pattern of injury may indicate that the dead person was a perpetrator of the explosion, for example maximum injury in the lower abdominal region suggests that he or she carried the device on his or her lap during a premature explosion.
- d. At autopsy, all foreign objects in the tissues, identified on X-rays, must be carefully preserved for forensic examination.
- e. Samples of tissues, clothing, etc., must be retained for chemical analysis to identify the type of explosive.

## 9. Blunt and/or sharp force injuries

The following should be carried out:

- examination of the weapons or objects that are possibly involved (especially their dimensions);
- extensive examination and inspection of clothing (including damage, stains);
- careful dissection and description of all tracks (layer by layer) including their dimensions and weapon-related traces, signs of vitality.

## 10. Fire Deaths

The following should be carried out:

- examination of remains of clothing, – specific types and shapes of skin combustions;
- search for heat-related alterations and peculiarities;
- demonstration/exclusion of fire accelerants.;
- search for signs of vitality: carbon monoxide, HCN, soot inhalation, skin lesions.

## 11. Suspicion of intoxication (General Outlines)

11.1 Where anatomical findings do not reveal a cause of death and/or there is vague suspicion of poisoning, basic sampling should include peripheral blood, urine, stomach contents, bile, liver and kidney.

11.2 If specific suspicion arises, sampling should be group-related as follows:

- hypnotics, sedatives, psycho-active drugs, cardiac drugs and analgesics, pesticides: as aforementioned under (11.1);
- drugs of abuse: as aforementioned under (11.1) and additionally cerebrospinal fluid, brain tissue, injection marks, hairs;
- volatile fat-soluble substances such as fire accelerant and solvents: as aforementioned under (11.1) and in addition: blood from left ventricle, brain tissue, subcutaneous fat tissue, lung tissue, clothing;

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- nutritional intoxication: as aforementioned under (11.1) and in addition: intestinal contents, if possible taken from 3 different sites;
- suspicion of chronic intoxication (heavy metals, drugs, pesticides etc.) as aforementioned under (11.1) and in addition: hairs (tufts), bones, fat tissue, intestinal contents.

## 12. Decomposed bodies

The presence of decomposition does not remove the need for a full autopsy.

Radiological examination will exclude bony injury, the presence of foreign bodies, for example bullets. Toxicological studies (particularly estimation of alcohol concentrations) should be carried out but interpreted with great caution.

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## EXPLANATORY MEMORANDUM

### Introduction

Investigations into cases of suspicious death are currently conducted under established national or local laws and practices. The need to develop international standards to ensure that investigations into cases of suspicious death are conducted under the best possible conditions is now becoming more and more important. Much groundwork has already been carried out on this subject by various international bodies. For example the “Sevilla Working Party on the Harmonisation and Standardisation of Forensic Medicine” and the European Council of Legal Medicine have already carried out detailed work on the subject of the harmonisation of autopsy rules and a code of good autopsy practice has been produced. Interpol’s “Disaster Victim Identification Guide” has now been submitted to 176 countries as guidance for the handling of disasters. The work of the Minnesota Lawyers International Human Rights Committee led to the adoption of “Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions” by the United Nations Committee of Crime Prevention and Control in 1991. The combined evidence of this research underlines the merit in harmonised procedures for carrying out autopsies and the reporting thereof at a European level. These standards should include rules on autopsies for all cases falling outside those carried out for clinical purposes. In addition, it should be noted that in a number of cases, such as accidents, where the death is due to non criminal causes, autopsy reports are still necessary and need to be transferred without any undue delay (if the death occurred abroad).

An autopsy is a detailed examination of a corpse carried out by one or more medico-legal experts in order to ascertain the principal cause and manner of death and any other ancillary or contributory abnormalities and, in certain cases, to establish the identity of the deceased.

It consists of a number of operations carried out on the corpse in order to examine the various organs and tissues of which it is composed and thereby ascertain the cause and manner of death.

However, in many cases, it is difficult to understand autopsy reports drawn up abroad due to the different approaches used in various countries.

Furthermore, due to the difficulties of identifying victims of mass disasters and victims of illegal executions and of murders committed by authoritarian regimes, there is a growing need to establish, beyond any doubt, the cause of death in all suspicious cases.

All Council of Europe member States carry out autopsies, but not all have specific and appropriate legislation regulating this issue. In certain States, the most relevant aspects of an autopsy are covered by criminal law, while in other States rules relating to autopsy procedures are contained in specific medico-legal legislation.

### The Parliamentary Assembly

The Parliamentary Assembly of the Council of Europe has been involved in questions relating to autopsies. In 1990, it adopted a Report on the harmonisation of autopsy rules, which contains very comprehensive and detailed information on the practices of autopsies in Europe and beyond. This report may be considered the basis for the Council of Europe action in this field.

Following this report, the Parliamentary Assembly adopted Recommendation 1159 (1991) on the harmonisation of autopsy rules.

In this Recommendation, the Assembly “considers it is a necessary practice for autopsies to be carried out in all Council of Europe member States to establish the cause of death for medico-legal or other reasons or to establish the identity of the deceased”. The Assembly also notes that “as the mobility of the population increases throughout Europe and throughout the world, the adoption of uniform guidelines on the way autopsy reports are to be established becomes imperative”. This is particularly true in cases of mass disasters, whether natural or not, involving persons of different nationalities (e.g. air accidents), illegal executions or murders perpetrated by authoritarian regimes, accidental death abroad or murder cases where the victim and the perpetrator are of different nationalities.

The Assembly further states that “internationally recognised and applied autopsy rules would therefore contribute to the fight to protect human rights, especially such human rights as the prohibition of torture and of ill-treatment, and the right to life”. Reference should be made in this context to both the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as “the European Convention on Human Rights”) and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishments.

Finally, the Assembly recommends that the Committee of Ministers:

- i. promote the adoption of harmonised and internationally recognised rules on the way autopsies are to be carried out and the adoption of a standardised model protocol for autopsies;

- ii. support the proposal that States world-wide formally accept and implement the obligation to carry out autopsies in all cases of suspicious death;
- iii. invite the member States to apply the Interpol guidelines on disaster victim identification;
- iv. invite those Council of Europe member States which have not yet done so to ratify the Council of Europe Agreement on the Transfer of Corpses;
- v. invite the 5 Council of Europe member States which have not yet done so to ratify the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;
- vi. draw up international rules to facilitate the formalities in subparagraphs 6.i.ii.iii.iv. and v. from the administrative (transport, crossing of borders, police, etc.) or legal points of view”.

### The Committee of Ministers

Following this Recommendation of the Parliamentary Assembly, the Committee of Ministers set up the ad hoc Committee of experts to study the harmonisation of autopsy rules (CAHRA) which, in co-operation with other relevant Committees of the Council of Europe, such as the Steering Committee on Bioethics (CDBI), the European Committee on Crime Problems (CDPC), the European Health Committee (CDSP) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), was entrusted with the task of “studying the harmonisation of autopsy rules in cases of suspicious death from the legal, ethical and medical points of view and making a list of the aspects which may form the subject of such harmonisation, with a view to drawing up minimum rules at international level for the performance of an autopsy in cases falling outside the autopsy carried out for medical purposes”.

In 1996, the CAHRA held its first meeting and adopted an Opinion for the attention of the Committee of Ministers, in which, taking into account the above mentioned Parliamentary Assembly Recommendation, it outlines the importance and utility of creating harmonised standard rules at a European level for the carrying out of an autopsy. The CAHRA also noted that such harmonised standards might be of interest not only for the persons performing the autopsy itself, but also for government authorities, police, family of the deceased, judges and so on.

Therefore, the CAHRA concludes on the advisability to draw up international rules to harmonise autopsy procedures and proposes to the Committee of Ministers to be entrusted with the task of preparing an international legal instrument containing guidelines on the harmonisation of medico-legal autopsies and reviewing periodically these standards (especially those subject to scientific progress).

In 1997, the Committee of Ministers revises the terms of reference of the CAHRA and decides to place this Committee under the supervision of the CDBI, thereby calling it Working Party on the Harmonisation of Autopsy Rules (CDBI-AR).

In particular, the Committee of Ministers decides that the CDBI-AR, taking into account Recommendation 1159 (1991) of the Parliamentary Assembly and other relevant international texts, including those of Interpol and of the United Nations, should prepare a legal instrument containing harmonised technical rules for medico-legal autopsies, taking into account the legal, ethical and medical aspects. This work has to be carried out in co-operation with the CDPC, the CDSP and the CPT.

#### The relevance of the Convention for the Protection of Human Rights and Fundamental Freedoms

The European Convention on Human Rights applies to everyone within the jurisdiction of the States Parties to it. In several occasions the European Commission of Human Rights (hereinafter referred to as "the Commission") and the European Court of Human Rights (hereinafter referred to as "the Court") have examined in their work autopsy reports, in particular in cases concerning the violation of Articles 2 (right to life), 3 (prohibition of torture or inhuman or degrading treatment or punishment), 6 (right to a fair trial) and 14 (principle of non-discrimination).

In many cases and with reference to the above provisions, violation of human rights as contained in the European Convention on Human Rights have been identified by the Strasbourg organs. In doing so, both the Court and the Commission have made great use of autopsy reports, as often the only reliable evidence ("the only clear and undisputed facts") on which it is possible to base a decision. Therefore, it is of utmost importance that autopsy rules and procedures be harmonised at a European level.

#### Commentary of the Principles and Rules contained in the Recommendation

##### *General*

Harmonised standards contained in an internationally acceptable legal instrument would ensure the credibility of medico-legal autopsy reports and be of great use for many reasons at an international as well as a national level. These may inter alia include the following:

- i) they would ensure that full and comprehensive autopsies be carried out;
- ii) they would ensure that autopsy reports be transferable and be made rapidly available in order to assist the judicial authorities and medico-legal experts in reducing the necessity for second autopsies when corpses are returned to their country of origin. For this reason all autopsy documents should be rapidly communicated to the competent authorities ;
- iii) they would facilitate a second autopsy, should such be necessary;

they would facilitate the identification of risk factors to human life (in particular environmental, work related and nu-

tritional) through epidemiological studies at an international level based on the results of the harmonised autopsies;

the autopsy report would become more internationally acceptable and more useful, being comparable, permitting statistical studies and thus preventive measures;

- vi) they would facilitate international co-operation in the fight against crime whether organised or not, with a view to its prevention;
- vii) they would facilitate the identification of persons, be it in isolated cases or in mass disasters;
- viii) they would facilitate international co-operation and contribute to the elucidation of the causes of death during mass disasters and therefore in certain cases lead to preventive measures;
- ix) they would facilitate the settlement of claims of a civil nature (for example civil liability, cases of succession or insurance contracts);
- x) in cases of death in custody an autopsy carried out by independent experts on the basis of an internationally acceptable legal instrument would be more credible and objective;
- xi) in cases of political killings an internationally acceptable legal instrument on autopsies would support and protect medico-legal experts and avoid pressure from the authorities to perform an inadequate autopsy or to give unjustified conclusions;
- xii) they would help to elucidate and thus deter arbitrary killings in authoritarian States;
- xiii) they would improve the level of scientific medico-legal co-operation within a European framework.

Such internationally recognised and applied autopsy rules are therefore essential in order to protect fundamental human rights, as well as civil and social rights. These rules would improve the efficiency of the prevention of and fight against crime and violent death, and improve the good administration of justice.

As regards the nature of the legal instruments to be adopted, owing to the differences in national laws and practices, it has been decided that the form of a recommendation, would be the most suitable instrument to set out guidelines in order to harmonise progressively autopsy rules at a European level.

#### Implementation of the Recommendation

The increasing movement of persons throughout Europe, the internationalisation of criminal activities, the need to investigate properly death in custody, political killings, arbitrary killings in an authoritarian State, the investigation of mass disasters, the need for investigation, description, documentation and sampling during medico-legal autopsies to follow primarily medical and scientific progress, are some of the reasons which are in favour of ensuring a proper implementation of the Recommendation by States. Moreover, ensuring the progressive harmonisation of medico-legal autopsy procedures at a European level in

the light of the text of the Recommendation, constitutes an important contribution to the prevention of cases of torture and the protection of human rights.

The Recommendation recognises that any follow-up process should be cost-effective. Indeed, on the one side, properly performed medico-legal autopsies would lead to a reduction in the number of medico-legal autopsies performed (as so-called “second autopsies” might not be necessary).

Therefore, the Recommendation underlines the need for States:

to adopt as their internal standards the principles and rules contained in the 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 the recommendation.

Moreover, as regards the performance of medico-legal autopsies, States should set up an effective quality control mechanism (quality assurance programmes) at a national level. These programmes should ensure the proper performance of medico-legal autopsies and should include, inter alia, both internal and external quality control to forensic laboratories. Therefore, a provision is included in the text of the Recommendation in order to encourage those States which have not yet done so, to set up such quality assurance programmes, with a view to ensuring the proper implementation of the principles and rules contained in the Recommendation.

Finally, the Recommendation points out that it would be important if States informed the Secretary General of the Council of Europe upon his or her request on the measures taken to follow-up the principles and rules contained in the Recommendation.

### Scope of the Recommendation

The aim of the Recommendation is to provide a number of useful guidelines to harmonise medico-legal autopsy procedures at a European level. The Recommendation contains in particular a set of both general principles and detailed rules which the governments of the member States of the Council of Europe are invited to consider when dealing with the legislation relating to medico-legal autopsies in their countries.

However, the principles and rules contained in the Recommendation do not prevent States from providing more favourable provisions than those contained therein.

In all cases of obvious or suspected unnatural death, even where there is a delay between the causative event and the death, the Recommendation requires medico-legal autopsies to be undertaken. In addition, the Recommendation contains a list of specific cases in which medico-legal autopsies should be carried out, including suicide or suspected suicide.

In addition, as far as the term “death in custody” is concerned, it is meant to include all death of persons in a

situation of deprivation of liberty, such as death in psychiatric hospitals, in prison or in a police station. Reference is also made in this context to death associated with military or police actions referring to cases when death occurs, inter alia, during political demonstrations or military conflicts.

Moreover, “other form of ill-treatment” refers to those ill-treatments which are significant in relation to the cause of death.

The text explains that in case where death may be due to unnatural causes, the competent authority, accompanied by one or more medico-legal experts, should investigate the scene, examine the body and order an autopsy to be carried out.

The Recommendation further underlines the need for medico-legal experts to be independent and impartial in the exercise of their functions.

It should also be noted that the Recommendation does not deal with questions of embalming, as this procedure is not always linked to autopsy procedures. However, it should be underlined that, should such a procedure take place, it should be carried out after a medico-legal autopsy.

### Principle I – Scene investigation

This Principle is divided in two sections, i.e. “General principles” and “Examination of the body” and, the latter, is then divided in two sub-sections, i.e. “Role of the police” and “Role of the medico-legal experts”.

#### *General principles*

As a general principle, during the investigation of the scene, in case of obvious or suspected unnatural death the physician who first attended the dead body should report to the competent authorities, the latter deciding on an examination to be carried out by a medico-legal expert.

However, it should be noted that in cases of suspected criminal death (especially homicides or suspicious deaths), medico-legal experts should be informed without delay and, where appropriate, go to the place where the body is found. Medico-legal experts should decide whether or not going there taking into account the importance of their intervention and the eventual movement of the dead body in another place.

Indeed, it should be underlined that the presence of medico-legal experts in the place where the body was found is not always necessary, but should be evaluated according to the specific circumstances of the case.

#### *Definition of a medico-legal expert*

A medico-legal expert is a medical doctor who:

1. has fully completed a postgraduate training in legal medicine preferably at university level and, where appro-

priate, is accredited as a medico-legal expert by the supervising authority in his or her country and

2. who habitually practices that speciality.

## Examination of the body

### *I. Role of the police*

It is a responsibility of all police services throughout the world to investigate sudden and suspicious death. This applies in cases of single fatalities as well as to disaster situations when there is a large scale loss of life, irrespective of whether death was due to environmental, technological or deliberate causes.

One aspect common to all those circumstances is the inevitable need for many police, technical, medical and other investigations to be involved with different but complementary functions, as all may contribute to determining criminal and civil liability.

Therefore, during the scene investigation, the Recommendation requires the police to carry out important tasks, some of them under the control of the medico-legal expert, such as protect the deceased's hands and head with paper bag (see Principles I.b.1.(a), (b), (c), (d) and (e) in the Recommendation) and to follow their internal laws and regulations, as well as relevant international rules, as regards their judicial police functions.

### *II. Role of the medico-legal expert*

The Recommendation underlines that in case of violent or suspected unnatural death, the physician who has certified the death should report without delay to the competent authorities, the latter deciding whether or not an additional examination should be carried out by a medico-legal expert (see definition of medico-legal expert above).

The medical examination of the body at the scene of death should be performed in accordance with Principles I.b.2.(a), (b), (c), (d), (e), (f) and (g) in the Recommendation. Owing to the very detailed indications contained in the text of the Recommendation, no further explanations are needed.

Furthermore, care should be taken so that no evidence found on the scene is moved, destroyed or lost and the integrity of the scene is preserved and all artifacts that could have caused the death should be seized for further examination.

However, it should be the task of all governments to promote co-operation between all parties involved during autopsy procedures.

## Principle II – Autopsy physicians

Medico-legal autopsies should be performed, whenever possible, by two physicians, of whom at least one should be qualified in forensic pathology (see the definition of medico-legal expert above).

## Principle III – Identification

In order to ensure that a proper identification of the body is achieved, reference should be made to the revised version of the Disaster Victim Identification Guide, adopted by Interpol in 1996. The purpose of this Guide is to promulgate good practices from the time an accident involving death is reported, until final release of a body and has proved to be helpful to both police and medico-legal experts. Whilst the document is based on a combination of acknowledged good practice and practical experience gained from previous incidents, it is recognised that the guidance may need to be adapted by States according to their internal law and practice.

Moreover, to enable the transmission of ante and post mortem data between and within countries a series of Forms have been devised by Interpol, which have been used successfully for many years. These Forms have been used frequently following disasters in various parts of the world by police, medico-legal experts, dentists and jewellery experts and have proven to be helpful when date is recorded, but far more valuable when the comparison and matching of data is undertaken. Having information arrive from various parts of the world in the same format and to the level of detail necessary is one of the widely accepted attributes of the system.

In addition, the following criteria could be considered in order to assist the identification of victims: visual recognition, personal effects, physical characteristics, dental examination, genetic identification, finger print and anthropological examination.

The Recommendation contains an indication of the ways in which the above methods of recognition should be carried out in order to be useful for the purpose of the autopsy procedure (see Principles III.1, 2, 3, 4, 5, 6 and 7).

## Principle IV – General considerations

In the part relating to the general consideration before starting a medico-legal autopsy, the Recommendation underlines the importance of preserving the dignity of the deceased, of safeguarding the interests of his or her relatives and of having regard to the proportionality principle.

Therefore, the Recommendation stresses that medico-legal autopsies and all related measures should be carried out in a manner consistent with medical ethics and preserving the dignity of the deceased. Where appropriate, the closest relatives should be given an opportunity to see the corpse.

The notion of dignified conditions should be considered in the light of the specific circumstances of the case. Indeed, if for instance the persons had deceased as a consequence of an air-plane crash, it is likely that the dead body would be in very bad conditions and it will not always be possible for medico-legal experts to realise a perfect cosmetic reconstruction of the dead body.

As regards the minimum actions to be undertaken before beginning an autopsy, the importance of undressing

the body and of examining and preserving carefully clothing and any personal object found on the body is underlined in the Recommendation.

Medico-legal experts should then follow the procedure described in the Recommendation before beginning the autopsy.

Moreover, it is considered particularly important to perform X-rays, in particular in cases of suspected child abuse or for identifying and localising foreign objects. However, there is no need to specify in the text of the Recommendation the type of X-ray that should be performed, owing to the fact that this should be decided on a case by case situation.

Before beginning the autopsy, the medico-legal expert should ensure that all body orifices have been appropriately swabbed and, if necessary, look for gunshot residues in case of shooting fatalities and record fingerprints.

Finally, if the decedent was hospitalised prior to death, admission blood specimens and any X-rays as well as hospital records, which will have to be reviewed and summarised, should be obtained, where appropriate with the intervention of a court.

#### Principle V – Autopsy procedures

The Recommendation deals in great details with the question of autopsy procedures and it indicates that they should normally be divided in two stages, i.e. external and internal examination.

Moreover, the investigation, description, documentation and sampling during a medico-legal autopsy should primarily follow medical and scientific principles and simultaneously consider the judicial requirements and procedures.

##### *External examination*

The Recommendation indicates all the elements that should be included in the description of the body following an external examination (see Principle V.I).

The Recommendation stresses that during the external examination, all injuries should be described by shape, exact measurement, direction, edges, angles and location relative to anatomical landmarks. In addition, signs of vital reaction around wounds, foreign particles inside wounds and in their surroundings and secondary reactions, such as discolouration, healing and infections should also be described.

Moreover, where appropriate, specimens from wounds must be removed for further investigations, such as histology and histochemistry.

The Recommendation points out that all signs of recent or old medical and surgical intervention and resuscitation must be described and that medical devices (such as endotracheal tubes, pacemakers, etc.) must not be removed from the body before the intervention of the medico-legal expert.

Finally, a decision has to be taken at the end of the external examination as to the strategies of investigation and the necessity of documentation by X-rays and other imaging procedures.

##### *Internal examination*

The Recommendation requires that all three body cavities, i.e. head, thorax and abdomen, be opened and examined and it also specifies that all organs be examined and sliced following established guidelines of pathological anatomy.

Moreover, the Recommendation contains an appendix relating to specific procedures to be applied in the following cases: strangulation, drowning or water death, sexually motivated murder, death from child abuse and neglect, infanticide or still-birth, sudden death, shooting fatalities, death caused by explosive devices, sharp force injuries, fire death, suspicion of intoxication and decomposed body.

Once the medico-legal autopsy procedure has terminated, the Recommendation underlines the need for the body to be released in a dignified condition. As indicated above, the notion of “dignified condition” is closely connected to the specific circumstances of the case.

Medico-legal experts should therefore endeavour to release the dead body at the end of the medico-legal autopsy procedure in a dignified condition, having regard in particular to the state of the dead body before starting the medico-legal autopsy procedure.

#### Principle VI – Autopsy report

The Recommendation underlines that the autopsy report is of fundamental importance in medico-legal autopsies and agreed that it is as important as the autopsy itself, as the latter is of little value if the findings and opinions of the medico-legal expert are not communicated in a clear, accurate and permanent document. Therefore, the autopsy report should be an integral part of the autopsy procedure and receive as much attention as the physical procedures in the autopsy room. The report is a permanent record of the findings and is a vital legal document which may be referred to in legal proceedings many years later, when all recollections of the details of the case has been driven from the memory of the medico-legal expert by numerous subsequent autopsies.

The report must therefore be:

1. full, detailed and comprehensive;
2. clear and lucid, being comprehensible not only to other doctors, but also to non-medical readers;
3. written in a logical sequence, well-planned and easy to refer to in various sections, following a conventional pattern;
4. be in a legible, permanent form with hard paper copy if it is retained in electronic storage. The word “permanent”

aims at underlining the need for autopsy reports to be kept forever.

As regards the format of the report and whether it should be made on a printed form or in the style of an essay, the Recommendation notes that it should be written in a discursive “essay” style (and not stereotyped).

Moreover, the content of the autopsy report should be drafted in an objective manner.

The Recommendation contains a detailed description of the content of the autopsy report (see Principle VI in the Recommendation).

One of the most important parts of the autopsy report is the evaluation of the significance of the accumulated results by the medico-legal expert. After termination of the autopsy, evaluation is usually provisional because later findings and later knowledge of other circumstantial facts can necessitate alteration and modification. The Recommendation notes that this is usually the most important part of any autopsy report and that it must be in a language easily understandable to non-medical readers. Medico-legal experts must interpret the overall findings so that the maximum information and opinion can be offered and that also questions that have not been specified by the authority must be addressed if this can be of significance. To neglect this duty and only give a bare factual report of physical findings is an evasion of responsibility by the expert.

Where several alternative possibilities for cause of death exist and the facts do not allow a clear differentiation between them, then the medico-legal expert should describe the alternatives and, if possible, rank them in order of probability.

Based on the final interpretation, the cause of death, in the International Classification of Disease (ICD) format should be given. If this is not possible, then the cause should be certified as “Unascertained”, rather than make some speculative and unsubstantiated proposals.

Where ancillary investigations, such as toxicology, DNA, virology, etc, take a considerable time to be made available, it may be advisable to issue an interim provisional report. However, the medico-legal expert must make it clear that no final opinion can be given until all information is available and that the provisional report may be modified, sometimes greatly, by the final report.

Furthermore, the delay in producing at least a provisional version of the autopsy report should be as short as possible. This is of the utmost importance even if the first version of the report is radically changed in the light of new information or discoveries.

Finally, the report should be carefully checked, then signed and dated by the medico-legal expert(s).

When this recommendation was adopted the Representatives of Denmark and the Netherlands, in application of Article 10.2c of the Rules of Procedure for the meeting of the Ministers’ Deputies, reserved the right of their Governments to comply or not with paragraph 2 (scope of the recommendation) of the present recommendation.

When this recommendation was adopted the Representative of Germany, in application of Article 10.2c of the Rules of Procedure for the meeting of the Ministers’ Deputies, reserved the right of his Government to comply or not with paragraph 2 f and h of the present recommendation.

When this recommendation was adopted the Representative of Ireland, in application of Article 10.2c of the Rules of Procedure for the meeting of the Ministers’ Deputies, reserved the right of his Government to comply or not with the present recommendation.

This report has been presented at the Plenary Session of the Parliamentary Assembly on 31 October 1990 (Doc. 6332) by the Rapporteur, Mr Morris, of the United Kingdom. Certain parts of this explanatory memorandum has been inspired by this very comprehensive report.

This text has been adopted by the Standing Committee, acting on behalf of the Assembly, on 29 June 1991, on the basis of the report of Mr Morris (cf. footnote no. 1).

On 28 October 1998, only Lithuania had not yet ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS 126).

See, for instance, the following cases: *Boddaert v. Belgium*, 12 October 1992, Volume 235-D of series A of the publication of the Court; *Saïdi v. France*, 20 September 1993, Volume 261-C of Series A of the Publications of the Court; *Diaz Ruano v. Spain*, 26 April 1994, volume 285-B of Series A of the Publications of the Court; *Mehmet Kaya v. Turkey*, Report of the Commission adopted on 24 October 1996, Application No. 22729/93; *Muharrem Ergi v. Turkey*, Report adopted by the Commission on 20 May 1997, application No. 23818/94.

Case of *Mehmet Kaya v. Turkey*, Report of the Commission adopted on 24 October 1996, Application No. 22729/93.

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