

**Opinion of the Bioethics Commission at the Federal Chancellery  
15th November 2008**

**Recommendations with Gender Reference for Ethics Committees and Clinical  
Studies**

**Introduction**

1. The tremendous increase in biomedical research over the last century has made it necessary to develop regulations for the protection and rights of trial subjects, resulting in a host of laws, guidelines and recommendations.<sup>1</sup>
2. In 1964 the World Medical Association formulated the Declaration of Helsinki.<sup>2</sup> This recommendation for physicians and scientists engaged in biomedical research defines ethical principles and rules of professional conduct for research involving human subjects. This document has been amended several times and recommends that all researchers describe their project in a research protocol which must be submitted to an independent research ethics committee set up for this purpose.
3. The Medical Faculty of the University of Vienna subsequently established an Ethics Committee in 1978 "to advise and review clinical research projects" submitted to the committee by members of the medical faculty. In the late 1980s and early 1990s the establishment and consultation of ethics committees in Austria was regulated by law, as a result of which ethics committees were also established outside the university sector. Since the 1970s the review of clinical research projects by ethics committees has been an integral component and requirement for clinical research projects and ultimately also a prerequisite for the subsequent publication of the results obtained from such projects.

---

<sup>1</sup> See also Druml Christiane, Frauen und klinische Forschung aus Sicht von Ethikkommissionen, in Hochleitner Margarethe (HG.), Gender Medicine, Band 1, Facultas, 2008.

<sup>2</sup> World Medical Association, World Medical Association Declaration of Helsinki: Recommendations Guiding Physicians in Biomedical Research Involving Human Subjects. Adopted by the 18th WMA General Assembly, Helsinki, Finland, June 1964, and amended by the: 29th WMA General Assembly, Tokyo, Japan, October 1975; 35th WMA General Assembly, Venice, Italy, October 1983; 41st WMA General Assembly, Hong Kong, September 1989; 48th WMA General Assembly, Somerset West, Republic of South Africa, October 1996; 52nd WMA General Assembly, Edinburgh, Scotland, October 2000; 53th WMA General Assembly, Washington 2002 (Note of Clarification on paragraph 29 added); 55th WMA General Assembly, Tokyo 2004 (Note of Clarification on Paragraph 30 added); 59th WMA General Assembly, Seoul, October 2008.

4. The task of an ethics committee is to assess the following facts on the basis of the documents that are submitted:
  - suitability of the physician or researcher,
  - available facilities and supporting staff,
  - the scientific validity of the trial design and the risk/benefit ratio,
  - recruitment of trial subjects, method of obtaining informed consent.

### **Structural Challenges – Composition of Ethics Committees**

5. Under the provisions of the Hospitals and Health Resorts Act (Krankenanstalten- und Kuranstaltengesetz - KaKuG), bodies responsible for hospitals are required to set up ethics committees at hospitals to assess the clinical trials of medicinal products and medical devices, as well as the use of new medical procedures (§ 8c ff).
6. The law requires that this assessment must make particular reference to:
  - the participating individuals and available facilities (personnel and structural framework conditions),
  - the relevance of the clinical trial and its design,
  - the design of the trial in terms of its aims, scientific validity and evaluation of the risk/benefit ratio,
  - the way in which the trial subjects are selected and how their informed consent is obtained,
  - the precautions which have been taken for the event of harm arising in connection with the trial,
  - amounts and arrangements for remuneration or compensation of the physician or researcher.
7. With regard to the structure of an ethics committee, the law stipulates that an ethics committee must be constituted of both male and female members and must at least include:
  - 1) a physician who is licensed in Austria and who is neither the medical director of the hospital nor the clinical investigator,
  - 2) a physician in the specialist medical field pertaining to the clinical trial or the new medical method, or if necessary a dentist, who do not act as investigators in the clinical trial,
  - 3) a member of the qualified nursing staff,
  - 4) a lawyer,
  - 5) a pharmacist,
  - 6) an independent patient representative,
  - 7) an individual with biometric expertise,
  - 8) an advocate of a representative organisation of persons with disabilities; and
  - 9) a further individual not specified in 1) to 8), who is entrusted with carrying out pastoral care work at the hospital or who otherwise possesses appropriate ethical expertise.

8. At the medical universities an ethics committee must also be established by the Senate to assess clinical trials of medicinal products and medical devices, the application of new medical procedures and applied medical research on human subjects (§30 ff Universities Act 2002). With regard to the requirements which the ethics committees are required to fulfil, the Universities Act 2002 refers to the relevant paragraphs of the Hospitals and Health Resorts Act.
9. Furthermore, under the terms of the Medicines Act § 41 ff, provincial governors are required to establish ethics committees for clinical trials conducted outside hospitals. The provisions governing the composition of these committees are identical to those of the Hospitals and Health Resorts Act referred to earlier.
10. The provisions in the Medical Products Act referring to the composition of the ethics committees deviate from the provisions referred to earlier in as much as they point out that if possible care should be taken to ensure a balanced proportion of men and women (§ 58 (4)).
11. Despite legal requirements, there appears to be only a rudimentary awareness with regard to a balanced ratio of men and women in such bodies in Austria. This is all the more astonishing, as many of the professions from which members of the ethics committees must be recruited, such as members of the nursing staff or pharmacists (staff of the hospital pharmacy) are traditionally occupied by women. Women account for between one third and one quarter of the members of the ethics committees of the three Austrian medical universities.<sup>3,4</sup>
12. If one looks at the percentage of women in all 27 Austrian ethics committees, it is manifest that in a comprehensive survey of the members, there is a low, but not a conspicuously low number of female members. However, this ratio changes if one only takes into consideration the scientists and doctors represented in the committee. In this case, the number of women declines dramatically, especially in the case of the non-university ethics committees. The reason is that women are recruited from professions such as qualified nurses, pharmacists, lawyers or patient representatives, but not at all or only rarely from among the ranks of physicians or scientists.<sup>5</sup>
13. Furthermore, the relevant provisions do not include any specifications with regard to ethical expertise or prior education for nomination to an ethics committee or mandatory continuing further education in this area.<sup>6</sup>

---

<sup>3</sup> [www.ethikkommissionen.at](http://www.ethikkommissionen.at)

<sup>4</sup> Moerman C.J., Haafkens J.A., Söderström M., Gender equality in the work of local research ethics committees in Europe: a study of practice in five countries, *J Med Ethics*. 2007 Feb;33(2):107-12.

<sup>5</sup> Lawrence K., Rieder A., Methodologic and ethical ramifications of sex and gender differences in public health research. *Gend Med*. 2007 4 Suppl B:S96-105.

<sup>6</sup> Davies H, Wells F, Druml C; How can we provide effective training for research ethics committee members? A European assessment. *J Med Ethics*. 2008 Apr;34.

## Content-Related Challenges – Consideration of Women in Clinical Studies

14. In order to protect women and the foetus, § 30 of the Medicines Act<sup>7</sup> stipulates that a clinical trial on women of childbearing potential may only be carried out or continued (except in those cases specified in § 44 AMG<sup>8</sup>), if they have a negative pregnancy test at the initial screening and at sufficiently regular intervals thereafter during the clinical trial.
15. In the interests of protecting women and the foetus, § 44 Medicines Act stipulates that a clinical trial of a medicinal product may only be carried out on a pregnant woman if the aim is to achieve a direct benefit for the pregnant woman or the unborn child. Furthermore, the trial may only be conducted if, according to medical knowledge, the clinical trial is unlikely to involve any risks for the unborn child and if, according to medical knowledge, adequate trial results can only be expected if the trials are conducted on pregnant women.
16. If women of childbearing potential are included in medicinal product trials, mandatory regular pregnancy tests are required by the Austrian Medicines Act. However, this raises the question whether the immediate exclusion from a trial subsequent to a confirmed pregnancy always serves to protect women and the unborn child or whether in some cases this might even pose a risk to the healthcare of the woman and the foetus.<sup>9</sup> The definition of clinical trial is so broad as to also include clinical trials on approved drugs which are indicated for the pregnancy.
17. Ultimately there are many obstacles which hamper the inclusion of women of childbearing potential in clinical trials, as a result of which too little is still known about the safety and efficacy of drugs in connection with women of childbearing potential.<sup>10</sup>

---

<sup>7</sup> § 30. Clinical trials of drugs on women of childbearing potential may only, with the exception of those cases stipulated in § 44, be conducted or continued if pregnancy is ruled out by a negative pregnancy test carried out before and at regular intervals during the clinical trial.

<sup>8</sup> § 44. (1) A clinical trial of a medicine may only be conducted on a pregnant woman if,

1. the medicine that is being tested is intended for the diagnosis, healing, relief or prevention of disease among pregnant women or unborn children,
2. according to medical knowledge, the use of the medicine is indicated in the case of the pregnant woman who is the subject of the trial or her unborn child, in order to identify diseases or their course, to heal or relieve them or to protect from such diseases,
3. according to medical knowledge, the conduct of the clinical trial is unlikely to involve any risk for the unborn child, and
4. according to medical knowledge, the clinical trial may only be expected to produce adequate results if the trials are conducted on pregnant women.

<sup>9</sup> Beran R., The ethics of excluding women who become pregnant while participating in clinical trials of anti-epileptic medications, *Seizure* 2006.

<sup>10</sup> See also Council for International Organizations of Medical Sciences (CIOMS), *International Ethical Guidelines for Biomedical Research Involving Human Subjects*, 2002.

## Recommendations

18. The Bioethics Commission recommends that action be taken to ensure an even balance of the sexes in the composition of ethics committees and that such measures be applied equally with regard to all legally required representatives in an ethics committee.
19. Furthermore, the Bioethics Commission recommends the inclusion of a clause in the Rules of Internal Procedure of the ethics committees obliging members to undergo initial and continuous further training in the areas of law, ethics and the principles of clinical research.
20. The Bioethics Commission recommends that action be taken to guarantee the inclusion of men and women of all ages according to acknowledged scientific principles (prevalence of the disease) in all biomedical and other research projects and to accept the exclusion of women of childbearing potential in exceptional cases only.
21. The Bioethics Commission recommends that the ethics committees take action to ensure that the topic is dealt with actively. The Commission also specifically recommends that the inclusion of women of childbearing potential in clinical trials (with due consideration to international guidelines) be formulated and discussed and that rules<sup>11</sup> be provided which make provision for a women-friendly study design of the projects that are submitted.
22. The exclusion of women or men of any age from clinical trials should require a detailed justification.
23. The Bioethics Commission appeals to public and private sponsors to allocate financial resources in a manner which makes it possible to comply with the recommendations above.

---

<sup>11</sup> See Statement of the Ethics Committee of the Medical University of Vienna, 2004  
[www.meduniwien.ac.at/ethik](http://www.meduniwien.ac.at/ethik).