BUNDESKANZLERAMT ÖSTERREICH

BIOETHIKKOMMISSION

Annual Report of the Austrian Bioethics Commission to the Federal Chancellor

September 2009 – September 2010

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1. Introduction

The Bioethics Commission was established at the Federal Chancellery in June 2001. The task of the Bioethics Commission is to advise the Federal Chancellor from an ethical point of view on all social, scientific and legal issues arising from scientific advances in the field of human medicine and biology (Federal Law Gazette II 226/2001).

The Bioethics Commission currently comprises 25 members from the fields of medicine, molecular biology and genetics, law, sociology, philosophy and theology. In October 2009, at the conference on Scientific Integrity, the members of the Bioethics Commission were appointed or reappointed, and Dr. Christiane Druml confirmed as the chairperson. Univ.-Prof. Dr. Markus Hengstschläger and Univ.-Prof. Dr. Peter Kampits were appointed as deputy chairs.

At the start of its fourth period of office the Bioethics Commission defined increased public relations work and international cooperation as key objectives. The Commission was again actively engaged in dialogue with the public and continued its international activities in the period under review.

2. Issues Examined by the Bioethics Commission

During the reporting period September 2009 - September 2010 the Austrian Bioethics Commission dealt with the following topics under general consideration of gender issues:

- Internet-Based Genetic and Genome-Wide Testing,
- Anonymous Birth, Discussion Regarding the Opinion Issued by the German Ethics Council,
- Reform of the Law Governing Reproductive Rights,
- Medical Decisions in End-of-Life situations.

2.1 Internet-Based Genetic and Genome-Wide Testing

At its annual “Forward Look” meeting held on 6/7 November 2009, the Austrian Bioethics Commission agreed to examine the topic of “Internet-Based Genetic and Genome-Wide Testing”. During several subsequent meetings, a report on this subject was drawn up and adopted on 10 May 2010.

2.2 Anonymous Birth

On 26 November 2009 the German Ethics Council issued a controversial opinion on “The Anonymous Relinquishment of Infants”. At a meeting on 10 February 2010, the Austrian Bioethics Commission agreed to publish a press release confirming the Austrian status quo (current practice in Austria).

2.3 Reform of the Law Governing Reproductive Rights

On 1 April 2010 the European Court of Human Rights (ECHR) ruled that the prohibition of sperm or ova donations for in-vitro fertilisation in Austria violates Article 14 (Prohibition of Discrimination) in conjunction with Article 8 (Right to Respect for Private and Family Life) of the European Convention on Human Rights.

At its meeting on 12 April 2010, the Austrian Bioethics Commission agreed to draw up recommendations concerning unresolved questions that might arise during the possible amendment of the Reproductive Medicine Act. The key points of these unresolved issues were published in a press release issued on 13 April 2010. A catalogue of problems and questions was subsequently drawn up but could not be adopted in the reporting period.

2.4 Medical Decisions in End-of-Life situations

At the annual "Forward Look" meeting held on 6/7 November 2009 the members of the Austrian Bioethics Commission agreed that they should examine this issue. The discussion was opened with introductory presentations by Dr. Wallner, (University of Vienna), Univ.-Doz. Dr. Valentin (Rudolfstiftung Hospital), Dr. Kletecka-Pulker (University of Vienna, Institute of Ethics and Law in Medicine, Member of the Austrian Bioethics Commission), Univ.-Prof. Dr. Herbert Watzke (Medical University of Vienna) and Angelika Feichtner, MSc, (IFF-Palliative Care, Paracelsus Private University).

3. Reports and Recommendations

In the reporting period September 2009 to September 2010, the following document was issued:

- *Internet-Based Genetic and Genome-Wide Testing,* Report of the Bioethics Commission, 10 May 2010[1]

The document can be viewed on the Bioethics Commission's website at **http://www.bundeskanzleramt.at/bioethik** .

[1] http://www.bundeskanzleramt.at/DocView.axd?CobId=39456

4. Events

The Bioethics Commission organised or co-organised the following events:

- *Kick-off event for the Bioethics Commission's fifth term of office, 20 October 2009*

  Following the inauguration ceremony of the fifth term of office of the Austrian Bioethics Commission on 20 October 2009, the Federal Chancellery hosted an international conference on Scientific Integrity with high-ranking members of the scientific and research community as key-note speakers. The conference was opened by Chancellor Werner Faymann.

- *Long Night of Research, 7 November 2009*

  As part of the “Long Night of Research”, the Bioethics Commission and the “Dialog Gentechnik“ at the University of Vienna organised a session on the subject of "Should Embryonic Stem Cells be Used for Research Purposes?“. The Bioethics Commission was represented by Univ.-Prof. Dr. Körtner, Univ.-Doz. DDr. Maier and the head of the Secretariat.

- *Bioethics at Schools project, 19 November 2009 and 10 /11 December 2009*

  The Bioethics at Schools project, which was launched in 2008, was continued in the reporting period and gave schools the opportunity to invite individual members of the Bioethics Commission to engage in discussion with students and teachers. On 19 November 2009, a further panel discussion on “Genetic Testing – Biomedical Research on Humans” was held at the Theresianum. The Chair of the Bioethics Commission, Univ.-Prof. Dr. Mannhalter, Univ.-Prof. Dr. Körtner and Univ.-Prof. Dr. Pöltner served as the panellists.

  Within the framework of the Council of Europe’s celebrations of the 10th anniversary of the adoption of the Biomedicine Convention, a discussion on ethical issues raised by genetic testing was held on 10/11 December 2009 in Strasbourg. High school students from selected European countries (France, Germany and Austria) were invited to discuss ethical aspects of genetic testing in a conference organised by the Council of Europe. Austria was represented by 10 students from the Theresianum who were accompanied by the Chair of the Bioethics Commission and a member of staff from the Secretariat.

- *Joint event with the Institut Français on the “loi bioéthique”, 14 December 2009*

  On 14 December 2009, the Bioethics Commission and the French cultural institute held a joint event to analyse the function of national bioethics commissions as the interface to applied research from both French and Austrian perspectives.

Dr. Druml, Univ.-Prof. DDr. Kopetzki and Univ.-Prof. Dr. Köller were actively involved in organising the symposium.

- *Joint Conference with the Department of Ethics and Law in Medicine, "Research Ethics and Research Law", 14/15 January 2010*

  On 14/15 January 2010 a conference on "Research Ethics and Research Law" organised jointly by the Bioethics Commission and the Institute of Ethics and Law in Medicine was held. Univ.-Prof. Dr. Köller and Univ.-Prof. Dr. Kampits participated as chair persons. Speakers included Univ.-Prof. Dr. Körtner, Univ.-Prof. DDr. Kopetzki, Univ.-Prof. Dr. Pöschl, Univ.-Prof. DDr. Fischer, Dr. Druml, Univ.-Prof. Dr. Hengstschläger and Univ.-Prof. Dr. Wagner.

- *Ethik:Rat Öffentlich, Ageing in Europe, 18/19 February 2010*

  The conference was sponsored by the Catholic lay organisation "Katholische Aktion Österreich", the "Salzburger Ethik" Initiative and the Austrian Bioethics Committee and was conceived as a follow-up event to the international conference of the Bioethics Commission held in October 2007. Speakers at the conference included Univ.-Prof. Dr. Wagner, who presented the report of the Bioethics Commission on "Assistive Technologies", and Univ.-Prof. Dr. Springer-Kremser and Univ.-Doz. Dr. Maier, who addressed sex and gender-specific aspects of medical care in an ageing society. The Chairperson of the Bioethics Commission and the head of the Secretariat also attended the conference.

- *Bioethics and Women Revisited, 31 May 2010*

  A further event was held as part of the Bioethics Commission's focus on gender that was initiated in June 2008. The international conference, which was opened by the Minister of Women's Affairs, Gabriele Heinisch-Hosek, discussed the challenges of gender medicine in general, questions of evidence-based medical care from a female perspective and inequalities between male and female authors in the publication of results in medical journals.

During the reporting period members of the Bioethics Commission and representatives of the Secretariat took part in a number of national and international events, only a small number of which are mentioned here:

- 14th European Forum of National Ethics Committees, Stockholm, 16-18 September 2009 (Chairperson of the Bioethics Commission and the Head of the Secretariat).

- Meeting of the Steering Committee on Bioethics of the Council of Europe (CDBI), 3-5 November 2009 (Head of the Secretariat).

- 15th European Forum of National Ethics Committees, Madrid, 3-4 March 2010 (Chairperson of the Bioethics Commission and a member of staff from the Secretariat). Presentation by the Chairperson on: "Ethics Review and Clinical Trials Regulation: Experiences and Future Challenges, Perspectives from Austria".

- Meeting of the Steering Committee on Bioethics of the Council of Europe (CDBI), Strasbourg, 20-22 June 2010 (Head of the Secretariat).

- 8th Global Summit of National Bioethics Advisory Bodies, 26.-27 July 2010, Singapore (Chair of the Bioethics Commission). Presentation by the Chairperson on: “Ethical Aspects of Biobanking”.

5. Press Releases[2] / Publications

The following press releases and publications were issued during the reporting period:

Press releases on the following subjects:

- Reappointment of the Bioethics Commission,
- Long Night of Research, "Should Embryonic Stem Cells be Used for Research Purposes?“,
- Conference on Ethics and Law in Biomedical Research,
- Anonymous birth and “baby nest”,
- Conference on Bioethics and Women,
- Reform of the Law Governing Reproductive Medicine,
- Internet-Based Genetic and Genome-Wide Testing.

Brochures:

- Research on Human Embryonic Stem Cells, Report of the Bioethics Commission,
- Assistive Technologies: Ethical Aspects of the Development and Use of Assistive Technologies,
- Internet-Based Genetic and Genome-Wide Testing.

6. Outlook, Projects in 2010 / 2011

The following events are planned for the Commission’s forthcoming term of office:

- Annual “Forward Look” meeting of the Austrian Bioethics Commission, 5/6 November 2010;
- Symposium Medicine – Is the human being left behind? Communication in Theory and Practice, Forum Alpbach, 17/18 November 2010;
- International public event: “Clinical Trials Day“, 19/20 May 2011;
- International conference in cooperation with the Institut Français on “Perception of Reality“, spring 2011.

Priority will be given to discussion of the following topics:

- Medical Decisions in End-of-life situations,
- Research on individuals not able to consent,
- Scientific integrity, “Governance and law in Biomedical Research”,
- Reform of the law governing reproductive medicine.

[2] http://www.bundeskanzleramt.at/site/cob_39208/mode_ft/3460/default.aspx

7. Secretariat of the Austrian Bioethics Commission

The Secretariat of the Austrian Bioethics Commission was established at the Federal Chancellery and supports the Commission, the Chairperson and the working groups in the performance of their duties. In particular it handles the day-to-day business of the Commission, prepares its meetings and where necessary those of the working groups, keeps written records, obtains any information that is required, documents working material and implements rulings. The Secretariat is headed by Mag. Dr. Doris Wolfslehner.

8. Contacts and Cooperation

The Austrian Bioethics Commission collaborates with the relevant government departments (e.g. Ministry of Science and Research, Ministry of Health, the Ministry of Justice, the Ministry of Labour, Social Affairs and Consumer Protection, the Ministry of Transport, Innovation and Technology, the Ministry of Women's Affairs and Public Services). Contact has also been made and deepened with relevant organisations and advisory bodies (including National Health Council (OSR), medical and scientific organisations, the Austrian Advisory Board on Gene Technology and organisations representing the disabled and self-help organisations).

The Austrian Bioethics Commission is in permanent contact with other National Bioethics Commissions (e.g. Germany, Slovakia, France, the UK, Italy). In addition, it collaborates closely with various international organisations. Members of the Bioethics Commission are represented in the European Forum of National Ethics Committees and the International Bioethics Committee (IBC) of UNESCO. The Secretariat is also represented in the Steering Committee on Bioethics of the Council of Europe (CDBI) and in the Intergovernmental Bioethics Committee (IGBC) of UNESCO.

Appendix I

Order of the Federal Chancellor Regarding the Establishment of a Bioethics Commission, Federal Law Gazette II No. 226/2001, Federal Law Gazette II No. 517/2003 and Federal Law Gazette II No. 362/2005

Establishment of the Bioethics Commission

§ 1. A Bioethics Commission (Commission) shall be established at the Federal Chancellery.

Tasks

§ 2. (1) The task of the Bioethics Commission is to advise the Federal Chancellor from an ethical point of view on all social, scientific and legal issues arising from scientific advances in the field of human medicine and biology. In particular, this includes:

1. Providing information and promoting discussion within society on key findings in the fields of human medicine and biology and the related ethical issues,
2. Submitting recommendations for practical use,
3. Submitting suggestions concerning necessary legal measures,
4. Preparing expert reports on particular issues.

(2) The tasks referred to in para. 1 shall be carried out with reference to those general affairs of government policy that fall within the competence of the Federal Chancellery, including the coordination of the entire federal administration and efforts to achieve consistent cooperation between local authorities.

Composition of the Bioethics Commission

§ 3. (1) The Commission has 15 members. If necessary additional members may be appointed, but only ut to a maximum number of 25.

(2) The Commission shall include in particular experts from the following fields:

1. Medicine (in particular reproductive medicine, gynaecology, psychiatry, oncology, pathology);
2. Molecular biology and genetics;
3. Law;
4. Sociology;
5. Philosophy;
6. Theology.

Appointment of Members

§ 4. (1) The members of the Commission shall be appointed by the Federal Chancellor for a period of two years. They may be reappointed.

(2) The Federal Chancellor shall appoint the Chairperson of the Commission and two Deputy Chairpersons for a period of two years.

(3) Membership of the Commission is an honorary unpaid position. However, members shall be entitled to the reimbursement of travel expenses.

Convocation of Meetings

§ 5. (1) Meetings of the Commission shall be convened by the Federal Chancellor or the Chairperson. Meetings shall be convened as necessary, but at least every three months.

(2) The invitation to the meeting should if possible be delivered to members no later than three weeks before the date of the meeting and should include the provisional agenda.

(3) For the purposes of an expert discussion of an item of the agenda the Commission may invite to its meetings experts or other persons who are able to provide information.

Working Groups

§ 6. The Commission may set up working groups for the preliminary discussion of issues.

Presiding Officer and Procedures

§ 7. (1) The Chairperson shall open and preside over the meeting. If the Federal Chancellor has convened the meeting it shall be incumbent upon him to chair the meeting if he attends it. The final agenda must be set at the start of the meeting.

(2) The presence of at least one third of the members shall be necessary for the Commission to have a quorum. The Commission must strive to achieve the greatest possible degree of consensus when adopting resolutions. Resolutions shall be adopted by a majority of the votes cast; abstentions are not permissible.

(3) The Commission may decide that its deliberations and the documents upon which they are based must be held in confidence.

Public

§ 8. The meetings of the Commission shall not be open to the public.

Minutes, Documents, Reports

§ 9. (1) Written records must be kept of the Commission's deliberations. This record must also record dissenting opinions.

(2) It shall be incumbent upon the Federal Chancellery to keep these minutes and document the Commission's working material.

(3) Each year the Commission shall submit an annual report to the Federal Chancellor.

Rules of International Procedure

§ 10. The Commission may lay down more detailed rules concerning the conduct of its business. These must be approved by the Federal Chancellor.

Appendix II

Members of the Bioethics Commission as of October 2009

Dr. Christiane Druml (Chair)
Medical University of Vienna, Ethics Commission of the Medical University of Vienna

Univ.-Prof. Dr. Markus Hengstschläger (Deputy Chair)
Medical University of Vienna, Professor of Medical Genetics

Univ.-Prof. Dr. Peter Kampits (Deputy Chair)
University of Vienna, Faculty of Philosophy and Educational Sciences

Priv.-Doz. Dr. Diana Bonderman
Medical University of Vienna, Internal Medicine II

Univ.-Prof. DDr. Michael Fischer
University of Salzburg, Department of Social and Economic Sciences

Prim. Dr. Ludwig Kaspar
Head of the Healthcare Centre at the Sanatorium Hera

ao.Univ.-Prof. Dr. Lukas Kenner
Medical University of Vienna, Institute of Clinical Pathology

Dr. Maria Kletecka-Pulker
University of Vienna, Institute of Ethics and Law in Medicine

Univ.-Prof. DDr. Christian Kopetzki
University of Vienna, Department of Constitutional and Administrative Law
Institute of Ethics and Law in Medicine

Univ.-Prof. Dr. Ursula Köller
Hietzing Hospital, Institute of Medical and Chemical Diagnostics

Univ.-Prof. Dr. Dr. h.c. Ulrich Körtner
University of Vienna, Faculty of Protestant Theology, Institute of Systematic Theology,
Institute of Ethics and Law in Medicine

Univ.-Prof. Dr. Gerhard Luf
University of Vienna, Department of Legal Philosophy, Law of Religion and Culture: Section: Legal Philosophy, Legal Ethics and Methodology of Law

Univ.- Doz. DDr. Barbara Maier
University Clinic of Gynaecology and Obstetrics, SALK-PMU
Department of Gynaecological Endocrinology and Assisted Reproduction

Univ.-Prof. Dr. Christine Mannhalter
Medical University of Vienna, Department of Medical and Chemical Laboratory Diagnostics, Section: Molecular Diagnostics

Univ.-Prof. Dr. Johannes Gobertus Meran, M.A.
Hospital Barmherzige Brüder, Vienna, Internal Medicine

Univ.-Prof. Dr. Günther Pöltner
University of Vienna, Department of Philosophy

Univ.-Prof. Mag. Dr. Magdalena Pöschl
University of Graz, Institute of Austrian, European and Comparative Public Law

Mag. Dr. Barbara Prainsack
Centre for Biomedicine & Society (CBAS), King's College London

Univ.-Prof DDr. Walter Schaupp
University of Graz, Department of Moral Theology

EM Univ.-Prof. Dr. Marianne Springer-Kremser
MD Prof of Psychiatry and Neurology, Training Analyst (International Psycholanalytic Association, IPA). Past Position held: Director of the Dep. of Psychoanalysis and Psychotherapy, Medical University of Vienna

ao. Univ.-Prof. DDr. Michaela Strasser
University of Salzburg, Department of Social and Economic Sciences

Dr. Verena Strausz
Doctor phil. (University of Vienna, psychiatry, philosophy and psychology). Psychoanalyst in Vienna

Dr. Klaus Voget
President of the Austrian Association for Rehabilitation (ÖAR)
President of the Austrian Disabled Association (ÖZIV)

Univ.-Prof. Dr. Ina Wagner
Technical University of Vienna, Institute of Design and Technology Assessment

Univ.-Prof. Dr. Ernst Wolner
Medical University of Vienna, University Clinic of Surgery,
Clinical Department of Cardiac and Thorax Surgery