



*Presidenza del Consiglio dei Ministri*

## **NATIONAL BIOETHICS COMMITTEE**

### **DEFINITION AND ASCERTAINMENT OF DEATH IN MAN**

(15<sup>th</sup> February 1991)

#### *abstract*

The opinion deals with the problem of the ascertaining of death by means of the neurological criterion considered in a number of countries as a valid standard next to the traditional one (cardio-respiratory). Following a careful analysis of the criteria given by medicine from a technical-scientific point of view, the conclusion reached by the document is the one formulated some time ago now by the Harvard Commission (1968) and the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioural Research (1981), of the concept of death defined as the 'the total and irreversible loss of the organism's ability to autonomously maintain its own functional unit'. The Committee therefore stresses that the criterion 'that refers to 'cortical death' cannot be accepted in the ascertainment of which the centres of the paleoencephalus remain integral and the cerebral regulation ability of the homeostatic and vegetative functions stays active, autonomous breathing included'.

In this document the NBC keeps the problem of the ascertainment of death separate from that of organ transplant, due to the precise fact that death must not have an ulterior motive. The principle of solidarity that justifies organ transplants cannot be evaluated and considered even in the context of the definition of the death of the individual. However, if the right conditions exist, the procedures that can lead to the donation of organs for transplant ought to be started.

The opinion highlights the problems of ascertaining death in children and newborn babies, due to the difficulties existing in clinical and instrumental diagnosis forcing both science and law to adopt particular care and different criteria with respect to the ascertainment of death in adults.

Furthermore the NBC stresses how scientific criteria are often unknown or badly interpreted in public opinion and this contributes towards generating great perplexity about the exact definition of death and the moment at which it takes place. Hence the legislator is also invited to develop the criteria presented by medical science for the ascertainment of death into regulations and laws, so as to make the work of the doctor legitimate and definite in these end of life cases. In fact, the NBC's document proved to be of great importance to the Italian legislator who in Act 578/93, Regulations for the ascertainment and certification of death, for the most part drafted it by establishing in Art. 1 that 'death is identified by the irreversible stopping of all the functions of the encephala'.