



Second Study Commission
Civil law and procedure

Meeting in Vienna (Austria)

Conclusions

THE LAW RELATING TO ANY DUTY OF A MEDICAL PRACTITIONER TO INFORM A PATIENT
OF THE NATURE AND CONSEQUENCES OF AN OPERATION OR TREATMENT
BEFORE OBTAINING THE PATIENT'S CONSENT

1. In light of the fact that the question of the scope of necessary information about the risks which are associated with the planned surgery or treatment has to be decided on a case by case basis it can be questioned whether a statutory regulation of this subject is necessary at all. The majority of the countries represented are in favour of the adoption of legislation placing on the practitioner an obligation to inform the patient of the risks of the proposed surgery or treatment.
2. A statutory regulation on the scope of a physician's duty to provide information should at least state the principle that the physician on the one hand has to take into account the patient's well-being and on the other hand the patient's right to decide himself.
3. If in cases of emergency obtaining the consent to a particular treatment would result in a delay which puts the patient's life in jeopardy or could result in the danger of severe damage to his health, the patient's consent need not be obtained, when the patient is incapable of providing consent.

Topic of next year:

Provisional measures in civil proceedings.

Recife, 20th September 2000