

University of Groningen

Limits to the validity of contracts on human tissue in Italy, England and the EU

Santamaría, Enrique

DOI:
[10.33612/diss.122733643](https://doi.org/10.33612/diss.122733643)

IMPORTANT NOTE: You are advised to consult the publisher's version (publisher's PDF) if you wish to cite from it. Please check the document version below.

Document Version
Publisher's PDF, also known as Version of record

Publication date:
2020

[Link to publication in University of Groningen/UMCG research database](#)

Citation for published version (APA):
Santamaría, E. (2020). *Limits to the validity of contracts on human tissue in Italy, England and the EU: a comparative analysis*. University of Groningen. <https://doi.org/10.33612/diss.122733643>

Copyright

Other than for strictly personal use, it is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), unless the work is under an open content license (like Creative Commons).

The publication may also be distributed here under the terms of Article 25fa of the Dutch Copyright Act, indicated by the "Taverne" license. More information can be found on the University of Groningen website: <https://www.rug.nl/library/open-access/self-archiving-pure/taverne-amendment>.

Take-down policy

If you believe that this document breaches copyright please contact us providing details, and we will remove access to the work immediately and investigate your claim.

Downloaded from the University of Groningen/UMCG research database (Pure): <http://www.rug.nl/research/portal>. For technical reasons the number of authors shown on this cover page is limited to 10 maximum.

Propositions belonging to the thesis

Limits to the validity of contracts on human tissue in Italy, England and the EU

A comparative analysis

O. E. Santamaría Echeverría

1. It is desirable to regulate, via contract law legislative provisions, tissue transfers for the purposes of research.
2. The interaction of contractual mandatory norms and default rules could provide a strong protection to the rights and interests of the first transferor of human tissue.
3. Prior to the conclusion of the contract, the first recipient of tissue should provide the first transferor with all necessary information regarding the procedures and risks associated with the extraction and use of the tissue and data therein contained.
4. The first transferor of tissue should be free to decide, once it has received all the appropriate information, whether to give a specific or a broad consent for the research on her tissue.
5. Regarding contracts between the first recipient and subsequent recipients, mandatory rules should require that, when technically possible, the first recipient warrants that valid consent has been obtained according to all applicable laws. Such contracts should conform to the limits set in the original consent of the first tissue transferor.
6. Allowing the conclusion of sales and other non-gratuitous contracts on human tissue expands the available range of valid individual choices in a manner that is consistent with the notions of autonomy and value pluralism.
7. In order to legally allow the conclusion of non-gratuitous contracts, it is necessary to eliminate the prohibition of financial gain contained in Article 3 CFREU and Article 21 of the Oviedo Convention.