

## ***The Risks in Presuming***

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### INTRODUCTION

Organ transplantation brings up a myriad of bioethical issues, especially with regard to informed consent. In the US, an “opt-in” approach is practiced, in which patients’ organs will not be harvested unless they or their next-of-kin have provided written consent. Many people across the globe also advocate for the “opt-out” approach in which everyone is an organ donor unless they have withdrawn consent. It is important to emphasize that this system is still based upon informed consent, since every citizen should hopefully be aware of the nation’s organ donation policy. However, these valuable and necessary systems are by no means implemented globally, even in other developed countries. Recently, Russia made global headlines when a group of doctors at Moscow City Clinical Hospital No. 1 removed a patient’s organs after her death from an automobile accident, unbeknownst to both the dying patient or her grieving parents.

### ANALYSIS

The organ harvesting and subsequent transplantation incidents may have forever gone unreported to the family if it were not for the mother filing paperwork in connection with the case against the other driver. While reviewing documents, she came across a puzzling forensic report that explicitly detailed the removal of seven of her daughter’s organs.

An article distributed by the Moscow Times states that this event was not the only one of its kind that has happened in Russia. In 1992, a federal law on human organ and tissue transplantation created more confusion than clear guidelines on the issue (*The Moscow Times*, “Russia’s Unknown, Unwilling Organ Donors”). As the article states, the text is full of flaws that could potentially lead a healthcare personnel to secretly harvest organs. There exists a “presumption of consent” by the individual or a close family member to the postmortem removal of organs for use in transplantation.

The main issue lies in the lack of respect to the patient’s family—in the lack of commitment to inform the family. Although, presumably, the act of organ removal will subsequently help one or many other patients survive, this beneficence does not outweigh the necessary need for informed consent. Furthermore, the absence of formal, in-writing consent might lead to unrecorded transplant of organs, which could then very well end up in the hands of organized criminals waiting to sell the unrecorded organs on the black market—opening a door into the dark abyss of organ trafficking.

As the Moscow Times article highlights, Russia’s current policy of presumed consent harmfully affects the public’s view not only on organ transplantation but also on healthcare professionals and the patient-doctor relationship. Full disclosure and transparency lie at the heart of medicine, and cases such as the one described can lead to severe lack of trust in healthcare professionals. It is vital that Russia, and any other country with a similar organ transplantation policy (or none for that matter) move to an informed consent method, whether it be either the “opt-in” or “opt-out” approach, in order to uphold a patient’s autonomy as well as maintain the trust of altruistic patients or their families who plan to willingly donate organs.

Interestingly, the Russia Constitutional Court's defense for presumed consent stems from their belief that it is "inhumane" to bring up the question of donating organs right after a family has just been informed of their relative's death. In my opinion, the real inhumane act is going behind the family's back and performing the removal under the notion of "presumed consent." This policy easily leads to varying interpretations of the word "presumed" and is much too vague to serve as a policy on an issue as grave and controversial as organ donation.

## CONCLUSION

In all circumstances globally, the best policy is not even informed consent, but rather, prior consent. If every passport, driver's license, or other form of identification stated a patient's desire to potentially serve as an organ donor, then the muddled process of obtaining informed consent can be altogether bypassed in most instances. Although all alternatives consequently bring up their own ethical dilemmas, especially with the growing demand for organs and small supply; it is a significant improvement from Russia's current "presumed consent" approach.