The principal normative legal act, which regulates the transplantation on the territory of Belarus is the Law of the Republic of Belarus “On the transplantation of human organs and tissues” 2007[1]. The author examines the presumption of consent and offers some measures to improve the regulation of taking out organs and tissues from a cadaveric donor.

According to parts 3, 4 art.11 of the Law taking out organs and tissues from cadaveric donor is regulated by the presumption of consent – that is, if a person (or the member of his/her family) didn’t express his/her refusal to giving the organs to anyone else after the death, he/she is deemed to agree to such actions. The realization of this principle in the Republic of Belarus is connected with some psychological problems. One of them is the dissatisfaction of the members of the family, who were not notified of the operation. The other is doctors’ misgivings about the family’s revenge, in case they are against. It should be observed, though, that according to the Law, it is not obligatory for doctors to talk to the relatives of a dead about the prospective taking-out of organs. Thereby, if by the moment of such an action doctors were not informed about a dead’s refusal to be a donor, the operation is not unlawful.

After all, the legitimacy of doctors’ actions doesn’t solve the problems mentioned. What is more, such manipulations deprive a person of the right to decide the destiny of the body after the death. Under part 2 art. 17 of Additional Protocol to the Convention on Human Rights and Biomedicine, on Transplantation of Organs and Tissues of Human Origin neither organs nor tissues can be taken out if a person protested against it [2]. The fixation of this principle on the international level proves its progressiveness and deep respect for human rights. According to the Belarusian law, the absence of any information that one was against being a donor after the death gives doctors the right to start an operation, but it doesn’t rule out the possibility of a person’s disagreement to this. So, the official fixation of the presumption of consent in the Law without pointing out the necessity of giving a talk to a dead’s family seems to be inhumane.

On the other hand, it should be mentioned, that taking out organs and tissues from a cadaveric donor is often performed in the conditions that simply preclude the opportunity to give such a talk. In this situation an organ can become unfit for a transfer and an operation becomes impossible because of the time spent. This may lead to the diminution in the number of graftings made in Belarus, overloading of waiting lists and an increase in the mortality
among those who stand in a queue for transplantation. That is, the fixation of the obligation to give a talk to the members of a potential donor’s family is considered to be inhumane to a prospective recipient.

Carrying out a range of special measures to ascertain one’s consent to being a donor as fast as possible seems to be the best solution to the hurdles stated. In order to provide these measures a republican data bank should be created. The main objective of it is to contain full information about the people who are against serving as donors. For the most effective realization of the human right to decide the destiny of the body after the death it must be compulsory for all therapeutists in clinics and doctors in charge to inform patients about the possibility to become a donor. Apart from this they must register a person’s refusal in the republican data base if necessary. Thereby a doctor will be able to find out whether one is against serving as a donor or not in a few seconds, and the absence of necessity to give a talk to a dead’s family will drastically reduce the number of people waiting for an organ. This is very important, because the period of the vitality of some of them is too short (from 4 days to 1.5 minutes) What is more, active policy of the government, medical community, religious and public organizations can make a success in popularizing the donorship and cut down on the amount of refusals. For example, Spain has become one of the world’s leaders in this sphere after carrying out such activities [3]. All in all, the measures offered can drastically change the situation and improve the efficiency of the legal regulation of transplantation in the Republic of Belarus.

**Literature**