



# Legal Regulations Governing the Transfer and Transplantation of Human Organs Between Living Individuals

**Dr.Chems Eddine Hamadache**

University of continuing education, Tipaza centre, (Algeria).

E-mail : [maitre.hamadache4@gmail.com](mailto:maitre.hamadache4@gmail.com)

## Abstract:

The Algerian Investment Promotion Agency (AIPA) is a key institution that plays a pivotal role in managing The significance of human health, both from a legal and religious perspective, becomes even more pronounced when it involves the transfer and transplantation of organs between two individuals — the donor and the recipient. This critical issue prompted the Algerian legislator to introduce a dedicated section in Law No. 18-11 on health, titled “Provisions Related to the Removal and Transplantation of Human Organs, Tissues, and Cells.” This section outlines the main legal requirements and conditions established by the legislator, whether they concern the donor or the recipient. It also defines the medical and administrative prerequisites for organ transplantation procedures. Furthermore, it designates the authorized healthcare institutions responsible for performing such operations and binds the medical staff to comply with all conditions that ensure the physical safety of both the donor and the recipient.

**Keywords:** Organ transplantation, Donor and beneficiary, Legal controls, Physical safety, Algerian law.

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## Introduction

The issue of transferring and transplanting human organs between living individuals is of a unique nature. This type of surgical procedure departs from the conventional concept of medical practice. It differs because there is no therapeutic benefit for the donor, while the benefit is realized only for the recipient, who is the patient. This particular feature has led legal systems in general, and the Algerian legislator in particular, to develop a set of legal regulations aimed at governing such practices.

The Algerian legislator addressed this matter in Law No. 85/05 on the Protection and Promotion of Health<sup>1</sup>Amended and supplemented by Ordinance06-07<sup>2</sup>The general principle in medical practice is treatment. Exceptions are allowed only for scientific or experimental purposes, and even then, they are subject to a set of legal conditions that must be met in cases of organ transplants between living individuals.

The importance of this topic lies in the legislator's concern for protecting the health of both the donor and the recipient. Organ transplantation carries significant risks and requires strict conditions to ensure the safe transfer of the organ from the donor to the recipient.

One of the reasons that led us to choose this subject is the many challenges facing organ transplantation between donors and recipients. The Algerian healthcare system is relatively new to such procedures, which require advanced medical expertise and modern technology to be successful. In addition, there is a lack of legal texts regulating the transfer and transplantation of human organs.

To address this issue from all its legal aspects, the following research question is raised: What are the legal regulations governing the transfer and transplantation of human organs between the donor and the recipient?

## Section One: Legal Conditions for Organ Transfer and Transplantation

Transferring and transplanting human organs between living individuals represents an intrusion on the physical integrity of the donor, who gives up a part of their body for the benefit of another. Such practices

<sup>1</sup>See Law No.85-05 of February 16, 1985, relating to the protection and promotion of health, Official Gazette of the Algerian Republic, No. 08, issued on February 17, 1985

<sup>2</sup> Order No.06-07 dated July 15, 2006 amending and supplementing Law No. 85-05 dated February 16, 1985 relating to health protection and promotion, Official Gazette of the Algerian Republic, No. 47, issued on July 19, 2006

must be conducted in a way that balances two key interests: the need to protect the donor's physical safety, and the goal of saving the life of a patient in critical condition. Achieving this balance requires strict legal oversight of the entire process. This section examines the legal conditions governing organ transfer and transplantation between living individuals, focusing on both the donor and the recipient.

### **First: Legal Conditions Related to the Donor**

Consent is a key expression of the legal protection granted to the human body. The principle of bodily integrity prohibits any violation of an individual's physical safety, whether for their own benefit or for the benefit of others, unless there is explicit and informed consent. This consent must also comply with public order and moral standards. Therefore, removing an organ from a living person requires obtaining the clear and voluntary approval of the donor.

**A. Donor Consent:** The donor is one of the most important parties in organ transfer and transplantation procedures. Without the donor surgical, such operations cannot take place. Their consent holds particular significance, especially from a legal perspective. For the consent to be valid in these procedures, it must be given in written form.

<sup>1</sup>The donor must also have legal capacity for their consent to be recognized in organ transfer and transplantation procedures.

**1. Consent Must Be in Writing** All comparative legal systems that regulate organ transfer and transplantation agree that the donor's consent, along with its legal characteristics, are two fundamental requirements<sup>2</sup>This consent must remain valid until the moment of organ removal. Given the seriousness of the act the donor is undertaking; the Algerian legislator requires that consent be provided in writing. Moreover, written form alone is not sufficient. The law also requires that the donor express their consent in the presence of two witnesses. This is to prevent the individual from acting under emotional influence or making a hasty decision. In addition, the legislator stipulates that the written consent must be submitted to the director of the institution and the head physician of the department<sup>3</sup>This requirement also serves as a safeguard for the donor. If they choose to withdraw their consent, they are free to do so. The Algerian legislator included this condition in Article 162, paragraph 2, of Law No. 85/05 on the Protection and Promotion of Health. The article states:

*"Written consent is required from the person donating one of their organs. This consent must be given in the presence of two witnesses and submitted to the director of the institution, the physician, and the head of the department."*<sup>4</sup>According to Article 360, paragraph 4, of Law No. 18-11.<sup>5</sup>According to Article 360, paragraph 4, of Law No. 18-11 related to health, the Algerian legislator requires that the donor express consent for donation, when necessary, before the president of the court with territorial jurisdiction. The court official must first ensure that the consent is free, informed, and that the donation meets the prescribed conditions.

However, one criticism of the Algerian legislator in this regard is the failure to specify who bears the burden of bringing witnesses. It is clear whether this responsibility lies with the donor, the recipient, or the hospital. The answer to this question carries important implications for the burden of proof in case of any error.

**2. Consent Must Be Informed and Clear** In this context, informed consent means that the donor's approval leaves no doubt or ambiguity. It must be clear and explicit, using definite terms that show the donor's genuine

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<sup>1</sup>Dr. Ahmed Shawqi Abu Khatwa, Criminal Law and Modern Medicine, Dar Al Nahda Al Arabiya, Egypt.1995, p. 71.

<sup>2</sup>In France, it is required that the donor's consent be confirmed before the president of the court of first instance in the area where the donor resides, or before a judge appointed by the court president for this purpose. This consent must be given in writing and signed by both the donor and the judge. In the United Arab Emirates, the law requires that the donation be made through a written declaration signed by the donor and two witnesses. This is stipulated in Article 2 of Federal Law No. 15 of 1993 concerning the regulation of human organ transfer and transplantation. In the Hashemite Kingdom of Jordan, the procedure is limited to obtaining written consent from the donor for the removal of the organ from their body. As for Egyptian law, Article 5, paragraph 1 of Law No. 5 of 2010 states that: "In all cases, the donation must be made in writing, in a manner defined by the executive regulations of this law, and must reflect a free will, free from any defects in consent."

<sup>3</sup>Marouk Nasreddine, Human Organ Transplantation in Comparative Law and Islamic Law, A Comparative Study, Part One, Book One, Dar Houma, Algeria.2003, pp. 193-194.

<sup>4</sup>Hamid Zaidi, Legal Guarantees for Organ Removal and Transplantation Between Living Persons Under Law No.18-11 Health Related (Amended and Supplemented), Critical Journal of Law and Political Science, Vol. 1, No. 1, 2022, p. 383

<sup>5</sup> See Law No.18-11 dated July 2, 2018, relating to health, Official Gazette of the Algerian Republic, No. 46, issued on July 29, 2018.

intention to donate one of their organs while still alive<sup>1</sup>The Algerian legislator addressed the requirement of informing the donor in Article 360, paragraph 4, of Law No. 18-11 related to health. This responsibility is assigned to the Committee of Experts. The committee grants authorization for organ removal only after verifying that the donor's consent is free, informed, and meets the legal conditions. The Committee of Experts also informs the donor in advance of the risks they may face, the possible consequences of the removal, and the expected outcomes of the transplantation for the recipient.

This provision shows that the Algerian legislator links the donor's consent to the obligation of the Committee of Experts to fully inform the donor. This includes not only the usual risks associated with the removal procedure but also surgical extends to potential risks that could affect the donor both immediately and in the future.

**3. Consent Must Be Free**Since organ transplantation affects the integrity and safety of the healthy donor's body, extreme care and caution are required when approving such medical procedures. It is essential to ensure beyond any doubt that the consent is given freely, without any external pressure or psychological influence of any kind<sup>2</sup>Consent must be given by a person possessing sound mental faculties, as mental soundness is essential for the donor's capacity to form valid consent.<sup>3</sup>However, the Algerian legislator requires that the donor's consent to donate one of their organs be given in writing. This consent must be signed in the presence of two witnesses and submitted to the director of the institution, the physician, and the head of the department.

<sup>4</sup>Thus, the law does not recognize verbal consent from the donor.<sup>5</sup>The donor's will must be free from any defect for their consent to be considered valid. Consent has no legal value if it is given under deception or fraud.

The Algerian legislator addressed the donor's right to withdraw from the donation. No legal consequences were attached to such withdrawal. The donor is free to revoke their consent at any time and without any formal procedure.

## **B. Donor's Legal Capacity**

Legal capacity is a necessary condition. It allows the individual to express a free and informed will<sup>6</sup>, In the field of organ transplantation, legal capacity is divided into two types: medical capacity and legal capacity. Medical capacity refers to the donor's physical, psychological, and medical fitness to undergo the donation, without endangering their life or causing harm as a result of the removal of an organ from their body.<sup>7</sup>

Legal capacity is of two types. The first is passive capacity, which refers to a person's eligibility to acquire rights and bear obligations. The second is active capacity, which means a person's ability to carry out legal acts personally in a way that produces legal effects. This capacity depends on awareness and discernment.

There is no legal issue when the donor has full capacity. However, if the person lacks legal capacity, the Algerian legislator prohibits the removal of organs, tissues, or human cells from them. This also applies to minor donors. According to Article 360, paragraph 1 of the Health Law, the removal of organs, tissues, or cells from minors is strictly forbidden.

## **Second: Legal Conditions Related to the Recipient**

The legal requirements concern the conditions the legislator has set for the recipient. These can be summarized as follows:

### **A. Recipient's Consent**

Obtaining the recipient's consent is essential. Organ transplantation carries serious risks that may affect the patient in the future. For this reason, consent must be expressed in a specific form. It must be informed, clear, and given freely. The recipient must also possess legal capacity.

The Algerian legislator addresses the recipient's consent in organ transplantation under Article 364 of the

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<sup>1</sup> Dr. Abdel Rahman Khalfi, Contemporary Research, Comparative Criminal Law, Dar Al-Huda for Publishing and Distribution, Ain Mlila, Algeria, no edition.2014, p. 206.

<sup>2</sup> Muhand Salah Ahmed Fathi Al-Azza, Criminal Protection of the Human Body, New University House, Alexandria.2002, p. 15.

<sup>3</sup> Muhammad Hammad Marhaj Al-Haiti, Modern Technology and Criminal Law, Dar Al-Thaqafa, Amman, 1997.2004, p. 75.

<sup>4</sup>See the article162 of Law 85-05 relating to health protection and promotion

<sup>5</sup>Hamadi Abdel Nour, Legal Conditions Governing Organ Transfer and Transplantation Operations in Algerian Law, Sharia and Economics Journal, Vol.01, Issue 02, 2012, p. 151

<sup>6</sup>Dr. Freja Hussein, Basic Principles of Civil and Administrative Procedure Law, Office of University Publications, Algeria,2010, p. 15

<sup>7</sup> Sakhr Sami Ibrahim, Human Organ Transplantation in Palestinian Legislation, Master's Thesis, Faculty of Law and Public Administration, Birzeit University, Palestine.2008, p. 6.

Health Law, which states: "*Organ, tissue, or human cell transplantation may only be performed if it is the only means to preserve the recipient's life or physical integrity, and after the recipient has expressed their consent before the head physician of the admitting department and in the presence of two witnesses*"<sup>1</sup>.

It is clear from this article that the Algerian legislator placed the donor and the recipient on equal footing with regard to consent. The law requires that the patient agree voluntarily, after confirming that the procedure is the only means to save their life or protect their physical well-being. The legislator also requires that the recipient's consent be given in written form. Moreover, it must be expressed before the head of the department where the patient is admitted for treatment, and in the presence of two witnesses. This ensures that the recipient's inner will is clearly expressed in a tangible and verifiable way, given the potential risks they may face in the future<sup>2</sup>.

The second paragraph of the same article explains how consent is to be obtained when the patient's health condition does not allow them to express their will. In such cases, written consent for the procedure may be given by one of the patient's relatives, following the order specified by the Algerian legislator in Article 362 of the Health Law: the father or mother, the spouse, the son or daughter, or the brother or sister.

If the patient lacks legal capacity, consent must be provided by the father, the mother, or the legal guardian, depending on the case, as stated in the third paragraph of Article 362 of the Health Law.

In the case of minors, consent must be given by the father or mother, and in their absence, by the legal guardian. In exceptional situations, where the legal representatives cannot be reached and the case is urgent—meaning that any delay would lead to death—consent is considered valid if the head physician of the department confirms the situation in the presence of two witnesses<sup>3</sup>.

### **1. Consent Must Be Informed**

The surgeon is required to inform the recipient of all aspects related to the procedure. Failure to do so may result in criminal liability under comparative legal systems. Informed consent means drawing the patient's attention to the possible negative health effects, the likelihood of the body rejecting the transplanted organ, and the expected success rate of the operation. The physician is not allowed to withhold such information out of concern for the patient's psychological or medical state, nor on the grounds that the patient lacks understanding of medical or scientific matters<sup>4</sup>.

Informing the recipient is a professional duty that the doctor or surgeon owes to the patient. This includes, in particular, providing the patient with clear and truthful information about the reasons for each medical procedure.<sup>5</sup> The doctor must explain to the patient that the only available way to save their life is through the use of a new medical method, which in this case is an organ transplant. This is due to the failure and ineffectiveness of traditional treatments in their specific medical condition.

Referring to Algerian legislation, the law requires that the treating physician inform the recipient or their legal representative, as the case may be, about the possible medical risks. This is stated in Article 365, paragraph 5 of Law No. 18-11 on health.

### **2. Consent Must Be Free**

Free consent means that the patient reaches a decision to accept or refuse the transplant willingly and with full awareness of its consequences. The patient alone has the right to choose between preserving their physical integrity or undergoing a procedure that affects it.

Even if the recipient is sometimes viewed by doctors or surgeons as someone unable to fully assess the situation, the law still recognizes the patient as the only person qualified to decide whether or not to take the risk, as long as they act out of free will<sup>6</sup>.

### **B. The Requirement of Legal Capacity in the Patient**

Consent is only considered valid when it is given by a person capable of expressing their will in a legally recognized manner. However, since the patient is the primary beneficiary of the organ transplant, the procedure may still proceed even if the patient does not possess full legal capacity. This may be due to minority, mental illness, incapacity, or a deteriorating health condition that prevents the patient from understanding the nature of the transplant or from expressing their will. In such cases, the law provides

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<sup>1</sup>See the article 364 of Law 18-11 relating to health

<sup>2</sup>Marouk Nasreddine, the same previous reference, p.26

<sup>3</sup> See the article 364 of Law No. 18-11 relating to health

<sup>4</sup>Mansour Muhammad Hassanein, Medical Responsibility, no edition, Dar Mansha'at Al-Maaref, Alexandria, Egypt, no year of publication, p.30.

<sup>5</sup> Mamoun Abdel Karim, Patient Satisfaction with Medical and Surgical Procedures, A Comparative Study, University Publications House, Alexandria, Egypt, Year:2006, p. 547.

<sup>6</sup>Marouk Nasreddine, the previous reference, p.225.

protection by assigning the right to consent to specific individuals who are authorized to make the decision on behalf of the patient<sup>1</sup>.

In cases where the patient does not have full legal capacity and is unable to give informed consent due to their medical condition, the question arises: who holds the right to consent on their behalf? If the individual lacks legal capacity entirely, consent may be given by the father, the mother, or the legal guardian, depending on the situation. If the patient is a minor, the father or mother may provide consent, or, in their absence, the legal guardian assumes this role<sup>2</sup>

## **Section Two: Medical and Administrative Conditions for Organ Transplantation Between Living Persons**

To protect both the health of the organ donor and the recipient, Algerian legislation has set out several conditions and procedures. These measures aim to ensure the success of organ transplantation, which is a delicate and complex process. It requires advanced technology and a high level of medical expertise. This section addresses the medical and administrative conditions governing such procedures.

### **First: Medical Conditions for Organ Transplantation**

Law No. 18-11 on Health, issued by the Algerian legislator, distinguishes between medical and administrative requirements for organ transplantation. Both sets of conditions play a crucial role in ensuring the success of these procedures, which now demand significant involvement from both medical and administrative teams.

#### **A. The Medical Condition of the Donor and Recipient**

Organ transplantation depends primarily on specific medical requirements. These include the health status of both the donor and the recipient, as well as the necessity for tissue compatibility. Article 360 of the Health Law states: "It is not permitted to remove organs, tissues, or cells from a living person for the purpose of transplantation if doing so would endanger the donor's life."

Based on this, the physician must conduct thorough and extended medical examinations before proceeding with any organ removal. These tests help determine the usefulness of the organ intended for transplantation and ensure the donor is free from any infectious diseases that might harm the recipient. For example, it is not permitted to collect blood from a person infected with HIV or from a person whose body cannot tolerate the removal of the required amount of blood.<sup>3</sup>

#### **B. Immunological Compatibility Between Donor and Recipient**

Verifying tissue compatibility between the donor and the recipient is one of the key factors for the success of organ transplantation. The greatest threat to these procedures lies in the body's rejection of foreign elements—known as rejection phenomena (phénomènes de rejet).

Today, surgical techniques for organ removal and transplantation are no longer the main challenge. What remains critical is the body's tendency to resist and reject the transplanted organ, which reduces the chances of success. It is therefore futile to remove a healthy organ from a living person if the likelihood of success is low due to the recipient's immune response. Such an outcome contradicts the fundamental purpose for which organ transplants are permitted<sup>4</sup>

In this context, immunological compatibility between the organ donor and the recipient is required. Such compatibility is typically found among members of the same family. The donor must be a close relative, such as the father, mother, brother, sister, son, daughter, grandfather, grandmother, uncle, aunt, cousin, nephew, or niece. A spouse may also serve as a donor, as well as a stepmother or stepfather of the recipient.<sup>5</sup>

In cases where there is no immunological compatibility between the donor and the recipient, despite their family relationship, a solution may be proposed through paired organ donation. This involves forming two compatible "donor-recipient" pairs. In such cases, the donation takes place without disclosing the identity of either the donor or the recipient.

#### **C. Compliance of the Transplant Procedure with Public Order and Morality**

The remarkable progress in the field of medicine has led to certain abuses in practices related to human organ transplantation. This includes, in particular, human cloning, surrogacy, embryo banking, and gender reassignment. These developments raise serious ethical and legal concerns, especially in societies governed

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<sup>1</sup> Boujemâa Chahrazad, Consent in Human Organ Transplantation Operations According to Algerian Legislation, *Journal of Legal and Social Sciences*, Volume 9, Issue 1, March 2024, p. 212

<sup>2</sup> See the article 364 Paragraphs 3 and 4 of Law No. 18-11 relating to health.

<sup>3</sup> Mamoun Abdel Karim, the previous reference, p.508.

<sup>4</sup> Marouk Nasreddine, the previous reference, p.141.

<sup>5</sup> See the article 360 Paragraph 02 of Law No. 18-11 relating to health.

by Islamic principles. They are widely regarded as violations of public order and moral standards, and as infringements on the sanctity of the human body.

As a response, many legal systems have intervened to curb these trends. The widespread prohibition of surrogacy across most Arab countries stands as clear evidence of this approach<sup>1</sup>.

## **Second: Administrative Conditions for Human Organ Transplantation Procedures**

Various legal systems have developed specific regulations for organ transplantation in order to ensure compliance with laws that protect donors and to prevent illegal practices, such as human organ trafficking. These regulations define which medical institutions are authorized to carry out such procedures and establish clear guidelines for the physicians permitted to perform them.

### **A. Licensed Medical Institutions Authorized to Conduct Human Organ Transplantation**

Under Article 356 of Law No. 18-11 on Health, the Algerian legislator has provided for the creation of a national agency for organ transplantation. This agency is responsible for coordinating and developing the activities related to the removal and transplantation of human organs, tissues, and cells. It is also tasked with ensuring that these procedures are conducted legally and safely.

According to the above-mentioned article, the agency was established to oversee and promote the medical practices of organ, tissue, and cell transplantation. In addition, it plays an advisory role, as stated in Article 357 of Law No. 18-11 on Health<sup>2</sup>.

In this regard, the Algerian legislator has limited organ transplantation procedures to specific medical institutions, given the serious risks such operations pose to the human body and its safety.<sup>3</sup> This safeguard is stated in Article 366 of the Health Law: "Organ, tissue, or cell removal or transplantation may only be performed in licensed public hospitals, with authorization granted by the Minister of Health after consultation with the National Agency for Organ Transplantation."

The purpose behind this provision is to ensure that such high-risk procedures are carried out only in appropriate and controlled settings. Public hospitals are considered suitable because they are official institutions capable of assuming both civil and criminal liability. They also meet the legal and ethical requirements set by the law. This offers a level of protection for both the donor and the recipient.

The Algerian legislator also added another requirement in the second paragraph of Article 366. It states that hospitals must have appropriate medical and technical systems in place, along with internal coordination, in order to qualify for authorization to conduct organ and tissue removal.

### **B. Legal Authorization for the Surgeon**

Legal authorization forms the foundation upon which medical procedures involving the human body are permitted. This authorization is granted to a specific group of professionals—namely, licensed physicians. It is issued in the form of a permit from the Minister of Health, allowing them to carry out surgical procedures that are legally sanctioned.

In Algeria, the Minister of Health grants this authorization to those who meet the legal conditions required to perform such medical procedures<sup>4</sup>. According to Article 166 of the Health Law: "The practice of health professions is subject to the following conditions..." Likewise, Article 175 of the same law states: "Other categories of licensed health professionals authorized to prescribe pharmaceutical products or to conduct medical examinations and procedures shall be defined by regulation."

The aim of granting legal authorization lies in the fact that the law does not place trust in individuals who are not officially licensed. Only those with legal authorization are considered capable of providing medical care in accordance with established scientific standards that contribute to patient recovery. Any person acting outside this framework is considered to be practicing medicine illegally, as outlined in Article 185 of the Health Law.

### **C. Non-Commercial Nature of Human Organ Transplantation**

The Algerian legislator strictly prohibits any commercial transaction involving human organs. For this reason, it is not permissible to remove or transplant organs as part of any financial or profit-based arrangement. This is clearly affirmed in Article 358 of the same law, which states: "Organ, tissue, and cell removal or transplantation may not be subject to any financial transaction."

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<sup>1</sup> Dr. Abdul Rahman Khalfi, the same previous reference, p.213.

<sup>2</sup> The article states: 357 of Law 18-11 states the following: "Whenever necessary, in institutions authorized to remove tissues and cells, after consulting the National Agency for Organ Transplantation..."

<sup>3</sup> Mamoun Abdel Karim, the previous reference, p.511.

<sup>4</sup> Marouk Nasreddine, Criminal Protection of the Right to Bodily Integrity in Algerian and Comparative Law and Islamic Law, National Office of Educational Works, First Edition, 2003, pp. 266-267.

The legislator reinforced this principle by establishing the requirement that all procedures involving the removal or transplantation of human organs, tissues, or cells must be provided free of charge. This is stated in Article 367 of Health Law No. 18-11, which provides that: "Practitioners involved in the removal or transplantation of organs, tissues, or cells shall not receive any payment for performing such procedures."

It is worth noting that, for comparison, French law goes further. In addition to establishing the principle of non-commercial organ donation, it imposes criminal penalties for violations of this principle—penalties that may reach up to seven years of imprisonment. This includes penalties for acts of mediation. However, the Algerian Health Law merely prohibits receiving payment for the removal or transplantation of human organs or tissues, without attaching criminal liability to violations of this rule<sup>1</sup>.

However, referring back to the text of Article 303 bis 16 of Law No. 09/01...<sup>2</sup>Dated 02-25-2009, the amendment and supplement to Order No. 66/156 concerning the Penal Code states: "Anyone who obtains an organ from a person in exchange for financial gain or any other benefit, regardless of its nature, shall be punished by imprisonment for a period ranging from three (3) to ten (10) years, and fined between 300,000 DZD and 1,000,000 DZD. The same penalty applies to anyone who mediates with the intent to encourage or facilitate the acquisition of an organ from another person's body"<sup>3</sup>

## CONCLUSION

The legal protection provided by the Algerian legislator for organ transfer and transplantation between donors and recipients has encouraged many individuals to donate their organs to patients in need. The legislator has introduced strict rules that must be followed to preserve the health of both the donor and the recipient. This is especially important because organ transplantation is a complex medical procedure. It requires specialized skills and advanced equipment.

Law No. 18-11 on health clearly addresses this matter. It includes several legal provisions that regulate the process and establish strict conditions and procedures for its implementation.

Based on the legal texts that govern the transfer and transplantation of human organs, the main findings can be summarized as follows:

1. The Algerian legislator has granted legal protection to human health, particularly in matters related to the transfer and transplantation of organs from one person to another.
2. The process of removing an organ from a donor and transplanting it into the recipient is one of the most complex and risky medical procedures. For this reason, the legislator has imposed strict regulations that must be followed to ensure the safety of both the donor and the recipient.
3. Law No. 18-11 on health emphasizes the need for the donor's explicit consent. The donor must also be informed of the possible consequences of the removal and the expected outcomes. Moreover, the donation must be made to a relative of the donor.
4. The Algerian legislator has excluded certain categories from donating their organs. These include minors, individuals who lack legal capacity, and persons suffering from illnesses that may pose a risk to the donor or the recipient.

### Based on these findings, the following key recommendations are proposed:

1. Enact specific legislation concerning the removal and transplantation of human organs, tissues, and cells. These procedures are highly significant as they can save lives. They are also among the most complex and risky operations for both donors and recipients.
2. Provide professional training and qualification for doctors who perform organ transplants, and grant them legal protection against any form of aggression from the relatives of the donor or the recipient.
3. Promote public awareness to strengthen a culture of organ donation, while assuring citizens that these procedures are subject to strict legal regulations.
4. Increase the penalties provided under Law No. 18-11 on health for any violations related to the removal and transplantation of human organs, tissues, and cells. Particular attention should be given to cases involving minors, persons lacking legal capacity, or anyone promoting organ donation for an individual or institution.

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<sup>1</sup> Dr. Abdul Rahman Khalfi, previous reference, p.214.

<sup>2</sup> Law No.09-01, dated February 25, 2009, amending and supplementing Order No. 66-156, dated June 8, 1966, containing the Penal Code, Official Gazette of the Algerian Republic, No. 15, issued on March 8, 2009.

<sup>3</sup>Ahmed Masoud Fatima, Organ Trafficking in Algerian Legislation According to Law No.09-01, Journal of Comparative Legal Studies, Volume 04, Issue 01, 2018, p. 177

5. Designate specific hospitals where human organ removal and transplantation may take place. These facilities should be equipped with advanced medical tools that contribute to the success of such procedures. Penalties should be tightened for any operations performed in unauthorized medical institutions.

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3. Law No. 09-01 of February 25, 2009, amending and supplementing Ordinance No. 66-156 of June 8, 1966, on the Penal Code, Official Gazette of the People's Democratic Republic of Algeria, No. 15, issued on March 8, 2009.
4. Law No. 18-11 of July 2, 2018, on Health, Official Gazette of the People's Democratic Republic of Algeria, No. 46, issued on July 29, 2018.