

# The Oviedo Convention and (European) bioethics: how much do they really have in common?

---

Muzur, Amir; Rinčić, Iva

Source / Izvornik: **Jahr : Europski časopis za bioetiku, 2017, 8, 245 - 250**

Journal article, Published version

Rad u časopisu, Objavljena verzija rada (izdavačev PDF)

Permanent link / Trajna poveznica: <https://um.nsk.hr/um:nbn:hr:184:851164>

Rights / Prava: [Attribution 4.0 International](#)/[Imenovanje 4.0 međunarodna](#)

Download date / Datum preuzimanja: **2025-01-14**



Repository / Repozitorij:

[Repository of the University of Rijeka, Faculty of Medicine - FMRI Repository](#)



Amir Muzur\*, Iva Rinčić\*

## The Oviedo Convention and (European) bioethics: how much do they really have in common?

On the occasion of the 20<sup>th</sup> anniversary of the Oviedo Convention

### Introduction

The convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: the Convention on Human Rights and Biomedicine (“The Oviedo Convention”; 1997) has been widely celebrated as the “first legally-binding international text designed to preserve human dignity, rights and freedoms, through a series of principles and prohibitions against the misuse of biological and medical advances.” [1] Although some of the major principles proclaimed by the Oviedo Convention had already been apostrophised by older and more general human-rights related documents, this Convention has often been titled “the best current example of how to promote the protection of human rights in the biomedical field at a transnational level“ [2, 3]. Twenty years after its formulation, the Convention is still associated with the same title, but, objectively, its strength and influence have significantly been jeopardized by numerous facts and developments. Many of them derive from the ambiguity toward basic concepts

---

\* Department of Social Sciences and Medical Humanities, Faculty of Medicine – University of Rijeka, Croatia; Department of Public Health, Faculty of Health Studies – University of Rijeka, Croatia; The “Fritz Jahr” Documentation and Research Centre for European Bioethics – University of Rijeka, Croatia; UNESCO Chair on Social Sciences and Medical Humanities – University of Rijeka, Croatia; Scientific Centre of Excellence, Faculty of Humanities and Arts – University of Zagreb.

*Correspondence Address:* Amir Muzur, Department of Social Sciences and Medical Humanities, Faculty of Medicine – University of Rijeka, B. Branhetta 20, 51000 Rijeka, Croatia. E-mail: amir.muzur@medri.uniri.hr.

(such as dignity or identity), some other result from the doubtful limitations the Convention presents within certain issues, such as medical research, access to the health care of appropriate quality, etc. At the same time, really controversial issues have been left out from the Convention [4, pp. 6]. Finally, while some of the most influential European states (e.g. Germany and UK) have not ratified it as yet, and some other expressed their reservations (e.g. France) [5, 6].

Among several books and dozens of papers analysing the Convention, a few of them stressed certain controversies (e.g., with respect to the Italian translation of Article 21 and 22), [7, 8], but the majority have praised the Convention's coverage of bioethical issues (9, 10), unofficially even naming the document "Bioethical Convention" [11]. The truth is that the Convention uses the term "bioethics" only in two less relevant points: within the Preamble ("Taking account of... Recommendation 1160 (1991) on the preparation of a convention on bioethics"), and in Article 32 ("the tasks... shall be carried out by the Steering Committee of Bioethics (CDBI)..."). One might say that not "bioethics," but the bioethical issues have been the matter of the Convention: since our culture, knowledge, and understanding of "bioethics" essentially influence our definition and selection of bioethical issues, nevertheless, we have to investigate more thoroughly the history of bioethics, which has lately been reshaped by a series of new discoveries.

## Bioethical "before" and "after" Oviedo

In April 1997, when the Oviedo Convention was signed, "known" was that the term "bioethics" had first been used by Van Rensselaer Potter and spread over the US on April 19, 1971, in the issue of *Time* magazine [12]. Even if Potter, the Wisconsin-Madison Professor of biochemical oncology, indeed coined the word out of "biological science" and "ethics," he conceived the new discipline in a much broader sense, aiming to "bridge" the gap between natural sciences and humanities. The term "bioethics," however, met with far wider promotion when accepted by the newly established Kennedy Institute of Ethics at Georgetown University, Washington, DC. The Kennedy Institute led by André Hellegers, started to use bioethics as a synonym for "biomedical ethics," that is, ethics considered with problems emerging from biomedical practice and research. The so-called "Georgetown Mantra" reduced bioethics to the four principles and dispersed the process of deciding onto ethical committees. Journals, publications, conferences, and courses, but particularly the political and financial power of the Institute have transformed however their interpretation of bioethics into mainstream bioethics. Last but not least, the Catholic Church, perceiving its chance to re-enter the debate on life issues – otherwise

“reserved” for physicians – as well as the ideological closeness to the Georgetown University and the Kennedy family, started to promote the Georgetown bioethics all over the world, founding first centres in Spain, Belgium, Italy, Croatia, and other predominantly Catholic countries. This was a major defeat for the original broader bioethics, leaving Potter to oblivion.

In Europe, beside the promotion by the Church and by scholars fascinated by American pragmatism and principlism, many cultures and institutions have remained reluctant to accept the non-necessary import of the very term “bioethics” (Germany, France). In the 1990s, some scholars tried to adjust the Georgetown bioethics to European values (Dahl and Kemp’s revision of the principles), [13] while some other launched their versions of bioethics (García’s or Privitera’s Mediterranean Bioethics, etc.), [14, 15]: it seemed, however, that the “march” of the Georgetown mainstream could not be withheld. This particular situation, present in April 1997, was well reflected in the text of the Oviedo Convention - the last masterpiece of non-European “bioethics” promoted in Europe.

Less than three months later, however, the things started to change. On June 26-29, 1997, in Tübingen, the 6th annual meeting of German Society for the History and Theory of Biology (*Deutsche Gesellschaft für Geschichte und Theorie der Biologie*; DGGTB) was held, devoted to the “Ethics of Biosciences: History and Theory.” Rolf Löther, then Professor at the Berlin Humboldt University, spoke about the “Evolution of the Biosphere and Ethics” (published a year later in the proceedings) [16]. In his paper, Löther quotes Albert Schweitzer and mentions that, beside Schweitzer’s “reverence for life,” there have been other attempts at expanding ethics onto all living beings, like Fritz Jahr’s bioethics (*Bio-Ethik*). For about ten years, the „news“ on Fritz Jahr’s bioethics remained restricted to a small group of scholars, mainly in Germany. But since 2007, a series of studies have been produced, particularly in Germany, Croatia, France, and Latin America, resulting in hundreds of conferences, books, papers, and projects devoted to the quantitatively modest (22 short papers), but qualitatively highly important contribution of the teacher and theologian from Halle an der Saale [17, pp. 127-128]. (In Italy, among the earliest mentions of Fritz Jahr was Antonio Spagnolo’s in 2010 [18]. Of course, the ideas related to various broader concepts of bioethics have been present since the first mention of V. R. Potter’s work in Europe, by Menicho Torchio in 1973, [19] as well as by the activities of Luisella Battaglia’s Centre in Genoa, founded in the 1980s). Jahr’s bioethics, in contrast to the Georgetown one, concisely expressed by the Bioethical Imperative (*Respect every living being as an end in itself, and treat it, if possible, as such!*), [20] tries to improve human beings by imposing on them obligations not only toward other humans („biomedical ethics“), but also toward animals and plants. This bioethics is not only

broader than its Georgetown „counterpart“ (even if encompassing it!), but fits much better the modern world concerns regarding environmental issues.

By the end of the 20th century and his own life, Van Rensselaer Potter (1911-2001), disappointed by the treatment his bioethics had received in the USA [21, pp. 104], re-shaped his „Bridge Bioethics“ into „Global Bioethics“ and started to promote it through a network of supporters all over the world. A particularly important role in the spread of this bioethics (again, essentially broader than the Georgetown biomedical ethics, and thus much closer to Jahr’s concept) has been played by the Florence anthropologist Brunetto Chiarelli, who not only succeeded in attracting Potter to his last travel to a conference (in Trento), but launched and edited the journal *Global Bioethics*. (One has to say that Global Bioethics as currently „exploding“ in textbooks, handbooks, and encyclopedias by Henk ten Have and Bert Gordijn, has not much in common with Potter’s original doctrine, being mostly limited to the listing of various biomedical-ethical and bioethical traditions around the globe) [22]. It is an interesting coincidence that, in 2011, only 15 miles farther North from Oviedo, in Gijón, Asturia, a street was named after V. R. Potter (*Calle del Prof. Potter*, between the Laboral University campus and the Atlantic Botanical Garden), following the initiative of a member of the Global Network, Marcelo Palacios.

## Where do we stand today?

From all the reasons discussed in this short paper, today we are entitled to speak of at least three independent lines of bioethics development: the Georgetown mainstream, Potter’s Global Bioethics, and Jahr’s European Bioethics (“European” meaning not-only-biomedical and based upon mainly European intellectual legacy rather than implicating geography). The Oviedo Convention has clearly been faithful to the first (Georgetown) line only, in perfect accordance to the beliefs of its time. The importance of the Convention cannot be and should never be underestimated, but it is necessary that we re-define it with respect to the new knowledge we have acquired in the meantime. We want to stress here that not only the terminology (“bioethics”) is problematic when speaking of issues covered by the Convention: the Oviedo Convention may also be viewed as promoting non-European values, by diminishing the importance of the society (Article 2), which already was noted as a step toward denying the (typically European) principle of solidarity [23]. In conclusion, one might suggest not to mix Oviedo with (European) bioethics: when speaking of the Convention, we may very well stick to the good old terms of “human rights” and “(bio)medical ethics.”

## References

- [1] <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/164> (retrieved on 12 August 2017)
- [2] Andorno R. The Oviedo Convention: A European Legal Framework at the Intersection of Human Rights and Health Law, *Journal of international biotechnology law* 2005; 2 (4): 133-143
- [3] Juškevičius J, Balsienė J. Human rights in healthcare: some remarks on the limits of the right to healthcare. *Jurisprudence* 2010; 4(122): 95–110
- [4] ten Have H. Introduction. In: ten Have H, Gordijn B (a cura di). *Bioethics in European perspective*. Dordrecht, Boston, London: Kluwer Academic Publishers; 2001: 1-11
- [5] Goffin T, Borry P, Dierickx K, Nys H. Why eight EU member states signed, but not yet ratified the Convention for Human Rights and Biomedicine. *Health Policy* 2008; 86 (2-3): 222-233
- [6] Rinčić I, Muzur A. Biomedicine and Human Rights: The Oviedo Convention and its Additional Protocols (book review). *Jahr* 2010; 1 (1): 213-214
- [7] Petrini C. Is my blood mine? Some comments on the Convention on Human Rights and Biomedicine. *Blood Transfusion* 2013; 11 (3): 321-3
- [8] Pascale A, Vidalis T. ‘Vague Oviedo’: autonomy, culture and the case of previously competent patients. *Bioethics* 2010; 24 (3): 145-152
- [9] Andorno R. La Convention d’Oviedo: vers un droit commun européen de la bioéthique. In: Azoux-Barrie L (a cura di). *Bioéthique, bioéthique*. Bruxelles: Bruylant; 2003: 59-93
- [10] Andorno R. La tutela della dignità umana: fondamento e scopo della Convenzione di Oviedo. In: Furlan E (a cura di). *Bioetica e dignità umana: interpretazioni a confronto a partire dalla Convenzione di Oviedo*. Roma: Franco Angeli Edizioni; 2009: 77-94
- [11] Rogers A. European bioethics convention encounters fresh hindrance. *The Lancet* 1996; 348 (9023): 330
- [12] Reich WT. The Word “Bioethics”: Its Birth and the Legacies of those Who Shaped It. *Kennedy Institute of Ethics Journal* 1994; 4 (4): 319-335
- [13] Rendtorff JD, Kemp P. *Basic Ethical Principles in European Bioethics and Biolaw*. Copenhagen/Barcelona: Centre for Ethics and Law/Borja de Bioética, 2000
- [14] Gracia Guillén D. ¿Un modelo mediterráneo de bioética? *Anales Real Academia Nacional de Medicina* 1995; CXII (4): 695-710
- [15] Privitera S. (ed.) *Bioetica Mediterranean e nordeuropea*. Rome: Armando; 1996
- [16] Löther R. Evolution der Biosphäre und Ethik. In: Engels E-A, Junker T, Weingarten M. (a cura di). *Ethik der Biowissenschaften: Geschichte und Theorie – Beiträge zur 6. Jahrestagung der Deutschen Gesellschaft für Geschichte und Theorie der Biologie (DGGTB) in Tübingen 1997*. Berlin: Verlag für Wissenschaft und Bildung; 1998: 61-68
- [17] Rinčić I, Muzur A. *Fritz Jahr i radanje europske bioetike/Fritz Jahr and birth of European bioethics*. Zagreb: Pergamena; 2012
- [18] Spagnolo AG. L'imperativo bioetico. *Medicina e Morale* 2010; 39 (1): 9-14.
- [19] Torchio M. Rapporti uomo-Natura secondo le principali metafisiche orientali, loro implicazioni bioetiche ed ecologiche. *Natura* 1973; 64 (2): 101-132

- [20] Jahr F. *Wissenschaft vom Leben und Sittenlehre*. Mittelschule 1926; 40 (45): 604-605
- [21] Muzur A, Rinčić I. *Van Rensselaer Potter i njegovo mjesto u povijesti bioetike/ Van Rensselaer Potter and his place in history of bioethics*. Zagreb: Pergamena: 2015
- [22] Muzur A, ten Have, H. (ed.) *Encyclopaedia of Global Bioethics* (book review). *Jahr – European Journal of Bioethics* 2016; 7 (2): 345-351
- [23] Callahan D, Symons X. Interview: Daniel Callahan on communitarian ethics. *BioEdge* 28 October 2015 (retrieved on August 31 2017, at <http://www.bioedge.org/bioethics/interview-with-daniel-callahan/11626>).