GCIG
Translational Research Brainstorming
October 2016, Lisbon

GYNECOLOGIC CANCER INTERGROUP
An Organization of International Cooperative Groups for Clinical Trials in Gynecologic Cancers

Legal and ethical aspects of global studies involving bio-banking and data transfer?

Anastassia Negrouk
Head of International Policy Office,
EORTC HQ, Brussels, Belgium

EORTC

The future of cancer therapy

Table of content

GCIG
Translational Research Brainstorming
October 2016, Lisbon

GYNECOLOGIC CANCER INTERGROUP
An Organization of International Cooperative Groups for Clinical Trials in Gynecologic Cancers

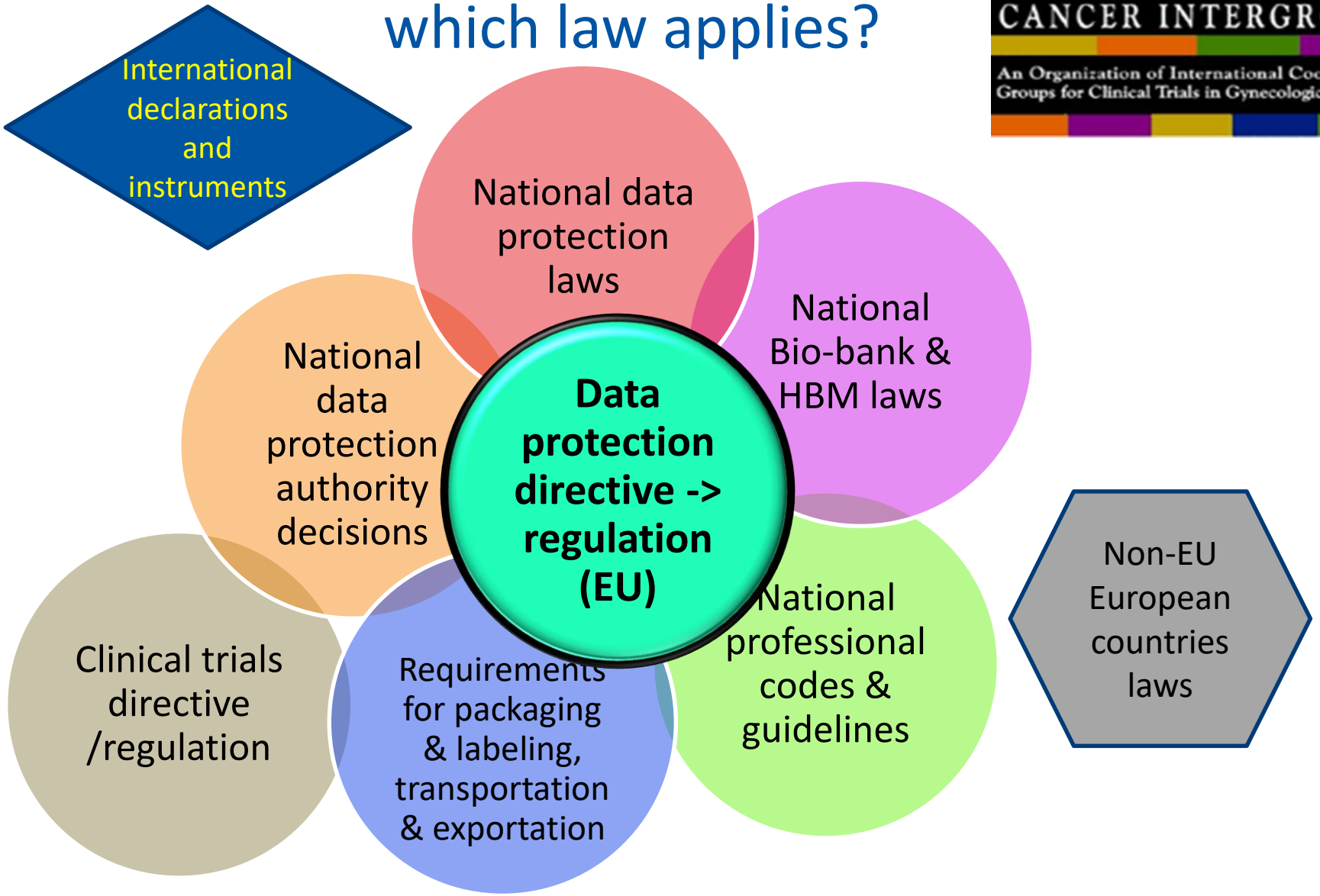
Setting the scene

EORTC

The future of cancer therapy

Heterogeneous legal framework: which law applies?

GYNECOLOGIC CANCER INTERGROUP
An Organization of International Cooperative Groups for Clinical Trials in Gynecologic Cancers



Common principles

- **Patient consent**
  - **<u>Specific & explicit</u>**
  - Implicit & opt-out (BE)
  - Broad or one time consent (UK, NL etc…)
  - Exemption from consent
    - Specific circumstances (*basis: Helsinki 2013, art 32*) -> NL v. 2000
    - Anonymous data
- **Ethical approval of research**
  - What is the "place of research" in international setting
  - Approval of specific research versus larger scoped approval
- **Other approvals**
  - Health authorities
  - Tissue authorities
  - Data protection authorities

Scope of HBM transfer

GYNECOLOGIC CANCER INTERGROUP
An Organization of International Cooperative Groups for Clinical Trials in Gynecologic Cancers

- Geographical scope:
  - within Europe (EU / EEA / Europe)
  - outside Europe
- Nature of the partner
  - non-commercial partner
  - commercial partner

Key parameters to consider for any transfer

- Which data:
  - Agglomerated data
  - Listings
  - IPD
  - Genetic data (& extent)
- IDENTIFICATION:
  - [Fully identified (name, address)]
  - Code or pseudo-anonymized or linked (code, number)
  - Double pseudo-anonymization
  - [Anonymized (back-up slides)]
- USE:
  - Primary use
  - Secondary use (outside the scope specified)
    - By the same entity
    - Sharing with third parties

Additional parameters to consider for HBM

- COLLECTION:
  - HBM collected specifically for the research project (blood, 2nd biopsy)
  - Pre-existing HBM
    - with diagnostic value
    - without diagnostic value
- SCOPE OF HBM REMOVAL:
  - Intervention specific to the research project
  - HBM collected during routine intervention
- STORAGE:
  - Decentralized (stored in each country / site)
    - eventually with virtual bio-bank
  - Central (reference laboratory or bio bank in one country)
  - **Academic or private bio banks (QA/QC, accreditation…)**

Additional considerations at time of research

- Is research retrospective?
  - retrospective to what?
    - collection time point?
    - before or after end of trial?
- Are patients still alive?
  - If patients are lost to follow-up or dead
    - data protection rules do not apply to deceased
    - exemption from consent as per art. 32 of Helsinki declaration highly likely to be granted
    - … but any genetic research is likely to be prohibited in FR (if not in the scope of consent)
    - to be considered country by country

Possible operational solution

- Case by case analysis of each TR project
- During the trial additional TR projects with data and HBM from this only project: amendments to the trial
- After the end of trial TR projects with central bio-bank:
  - formal EC approval of the country where research is being done (+/- request of exemption from PIS/IC based on Helsinki art 32) and
  - notification to all ECs (30 days to react)

GYNECOLOGIC CANCER INTERGROUP
An Organization of International Cooperative Groups for Clinical Trials in Gynecologic Cancers

Sending samples

How to send samples?

- Paraffin block in an envelop by regular post: does it work in an international setting?

- What about packaging, labeling & transport?
  - Specialized transporters
  - Temperature control
  - Infectious diseases tests documentation
  - Traceability & tracking

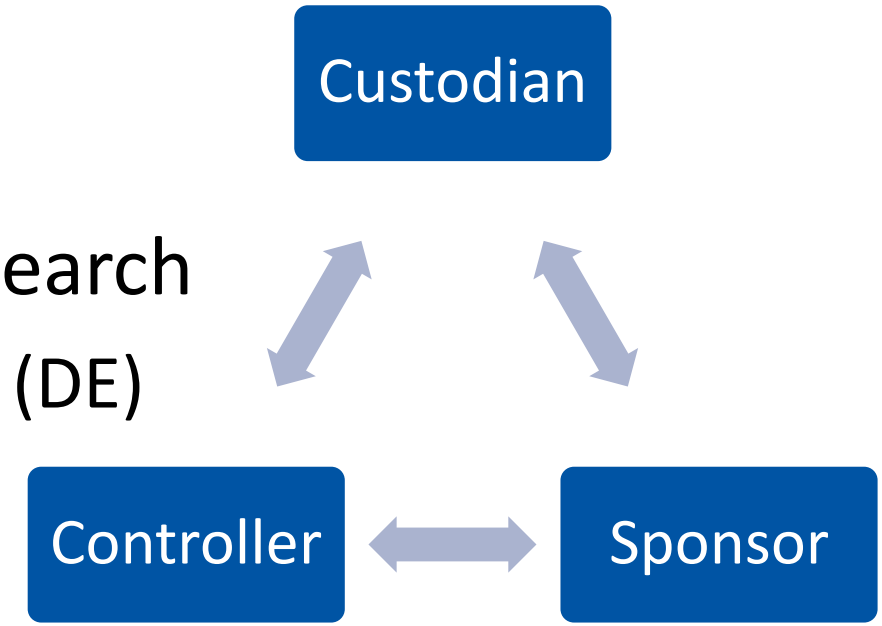
GCIG
Translational Research Brainstorming
October 2016, Lisbon

GYNECOLOGIC CANCER INTERGROUP
An Organization of International Cooperative Groups for Clinical Trials in Gynecologic Cancers

Who is responsible for the tissue, data and research done with it?

HBM, data & responsibilities

- Owner -> not appropriate for HBM
- Custodian
- Controller
- Sponsor of clinical research
  - Sponsor as custodian (DE)
  - Site as custodian (BE)
  - Chain of custody



War of definitions: who is in control?

- **'controller'** … *determines the purposes and means of the processing*
  - 'processor' … *processes personal data on behalf of the controller*;

- **‘sponsor’** … *takes responsibility for the initiation, management and/or financing of a clinical trial -> is ultimately responsible*

- **‘custodian’**
  - No EU definition
  - Dictionary: person who has responsibility for taking care of or protecting something
  - EORTC biobanking policy: Usually the legal entity responsible for safeguarding HBM and oversight of its use (sites are custodians of samples)
  - Corresponds to different legal terms in different countries

Possible operational solution

Contracts with all partners are needed:

-> Site contract or Material Transfer Agreement
(GCIG template)
-> Contract with central laboratory (as processor)
(GCIG template)

Shall include specifications on terms of transfer, intended use & applicable law

Transfer to third countries

- Transfer of personal data outside EU is prohibited unless:
  - third country guarantees the adequate level of protection
  - patient has given its consent to such a transfer
    and/or
  - controller put in place adequate safeguards (e.g. contract)
    and/or
  - EU-US Privacy Shield (former) Safe Harbor
  - Working party 29
    - opinions on countries
    - standard contractual clauses

GYNECOLOGIC CANCER INTERGROUP
An Organization of International Cooperative Groups for Clinical Trials in Gynecologic Cancers

Upcoming regulations

Data protection regulation

- Proposal from Commission in January 2012
- Final text approved in May 2016 to be applicable as of 25/05/2018.

- Not specific to research
- Regulation, but specificities relevant to research delegated to Member States to rule on

What consequences will it have on research?

It all depends on implementation:

- National implementation
  - Acceptance (or not) of one time consent
  - Eventual constraints on future research, genetic research etc…
- Harmonization of requirements between countries
- One stop shop mechanism performance

➢Large multi-stakeholder dialogue is needed

GYNECOLOGIC CANCER INTERGROUP
An Organization of International Cooperative Groups for Clinical Trials in Gynecologic Cancers

To conclude

Take home messages

- Agglomerated data and anonymous data can be transferred and shared freely (e.g. trial results)
- Transfer of HBM and IPD in a context of global research projects is possible, needs to be controlled, may turn out to be cumbersome and costly
- *art 32 of declaration of Helsinki is very instrumental: e.g IPD sharing*
- Decision making frequently requires a case by case analysis of laws applicable (decision making algorithm rather than a fixed process)
- One size does not fit all -> risk based approach is required
- Framework needs simplification and harmonization

What can we do now?

GYNECOLOGIC CANCER INTERGROUP

An Organization of International Cooperative Groups for Clinical Trials in Gynecologic Cancers

APPLY OPERATIONAL SCHEMES
& decision making trees
(risk based)

GYNECOLOGIC CANCER INTERGROUP
An Organization of International Cooperative Groups for Clinical Trials in Gynecologic Cancers

Back-up slides:
Use of coded versus anonymous data & residual material

Which data are anonymous?

- Data protection directive: no coded data
  - …"an identifiable person is one who can be identified, *directly or indirectly, in particular by reference to an identification number* or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity…"

Anonymous or not?

- Patient N° 1, L. Minnelli, born 26th May 1973…
- Patient N°2, blue eyes, 35 years old, male…
- Red hear, 25 years old, high degree of education…
- Paraffin block with human tissue
- AGTAGAGAGTCTAGACCCCACCCAGTCTTCATGTACGGCCGACCGCAGGCTGAGATGGAA CAGGAGGCTGGGGAGCTGAGCCGGTGGCAGGCGGCGCACCAGGCTGCCCAGGATAACG AGAACTCAGCGCCCAACTTGAACATGTCTTCATCTTCTGGAAGCTCTGGAGTGCACACCTC TTGGAACCAAGGCCTACCAACCATTCAGCACTTTCCTCACAGCGCAGAGATGCTGGGGTCC CCTTTGGTGTCTGTTGAGGCGCCGGGGCAGAATGTGAATGAAGGGGGGCCACAGTTCAG T ATGCCACTGCCTGAGCGTGGTATGAGCTACTGCCCCCAAGCGACTCTCACTCCTTCCCGG ATGATTTACTGTCAGAGAATGTCTCCCCCTCAGCAAGAGATGACGATTTTCAGTGGGCCC…