

# Cryopreservation—the field of possibilities

June 1 2018, by Anne-Blandine Caire

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Credit: Adam Jang/Unsplash

Cryonics have long been a staple of fiction, including everything from Philip K. Dick's classic 1969 sci-fi novel [\*Ubik\*](#) to the cheesy 1992 Mel Gibson film [\*Forever Young\*](#). More recent examples include French author Marc Levy's [\*L'Horizon à l'envers\*](#) (*The Upside-down Horizon*) and Don DeLillo's 1996 [\*Zero K\*](#). The idea is certainly attractive, and simple: pop yourself or a loved one into a freezer, wait a century, rethaw, and you're good to go.

From time to time, some stories draw attention to the real world of cryonics. For example, in 2016 a British judge authorised the [cryopreservation](#) of a fatally ill [14-year-old girl](#), and the following year, a [49-year-old woman](#) became the first person to be cryopreserved in China.

In reality, at a time when several hundred people around the world have already been cryogenised, such cases are no longer so rare. The three best-known companies in this field – [Alcor Life Extension Foundation](#), Cryonics Institute and [KrioRus](#) – offer various cryopreservation packages ranging from \$28,000 to \$200,000 that can be funded through a life-insurance policy with the selected company as the designated beneficiary. Far from being a mere fantasy, cryopreservation penetrates contemporary culture and is becoming a real business.

## **Towards a "postmortal society"**

As early as the 1960s, a milestone was reached in the quest for immortality thanks to the development of body cryopreservation techniques making it possible to stop the decomposition process and envisage subsequent resuscitation. Robert Ettinger, the founder of the Cryonics Institute and considered the father of cryonics, popularised these methods in his 1962 book [The Prospect of Immortality](#).

According to its defenders, cryonics would be the way in which the present mortal community would become the future "postmortal society" described by Céline Lafontaine and predicted by transhumanists. The claims for cryonics renew the quest for immortality and undoubtedly participate in the phenomenon of relegation of death that [Philippe Ariès](#) was able to describe by noting that "society has expelled death." In this context, it is not surprising that some individuals, are beginning to claim a right to cryopreservation, as a precursor of a right to immortality.

## Immortality in court

In the United States, cryonics does not seem to pose any legal difficulties, but in Europe, especially in France, the situation is different.

In this country, the law is not clear on cryopreservation, neither authorising nor prohibiting it. Therefore, can a French citizen be cryogenised despite this legislative uncertainty? That is the question put to the government by the French senator Jean-Louis Masson in 2006. The answer was unambiguous: only burial and cremation are legal, so cryopreservation is prohibited. Therefore, despite the recognition of the freedom of funerals by an 1887 French law and the obligation to respect the deceased's choices regarding his funeral provided by Article [433-21-1 of the French Penal Code](#), cryopreservation seems impossible to implement in France in the current state of the law.

The French supreme court for administrative justice is also against cryopreservation. One of its decisions concerned the preservation by a brother and sister, Michel and Joëlle Leroy, of their dead mother's body. On [July 29, 2002](#), the State Council rejected their request for permission to keep their mother's remains in a freezer located in the basement of their property in Saint-Denis de La Réunion. A second case concerned the maintenance of the remains of Dr. Raymont Martinot and his wife in a machine that their son, Rémy Martinot, was handling. On [January 6, 2006](#), the State Council reiterated that burial and cremation are the only legal burial methods.

Faced with the same issues, the British justice system has been more favourable. This may be due to the particularly tragic case of the terminally ill 14-year-old girl who wanted to be cryopreserved after her death but whose divorced parents disagreed. Her mother was in favour of the procedure but the father was not. However, in November 2016, the judge hearing the case indirectly accepted the cryopreservation of

the girl by ordering that her remains be entrusted to her mother. While resolving the particular case before him, the judge refused to reason on the legitimacy of cryonics.

## **A little "judicial science fiction"**

In a play by the French writer Jean Giraudoux, one of the characters says that "law is the strongest school of imagination." Let us take the writer at his word and perform some "legal science fiction," according to the expression of the French jurist Jean Carbonnier: let's imagine the legal regime of cryopreservation if it were authorised in France.

Dead without being definitively dead, the cryogenised person could possibly be resurrected; it would thus be necessary to create a system making it possible to protect the body and its inheritance during the cryonic suspension.

As regards cryogenised bodies, [paragraph 1 of Article 16-1-1 of the French Civil Code](#) could be amended and include a reference to cryogenisation by formulating it as follows: "The respect owed to the human body does not end with death nor with cryogenisation." Once this principle has been established, things should be considered more precisely by regulating the activity of cryopreservation societies, creating specific rules and drafting security contracts whose purpose would be to ensure the proper preservation of bodies.

Various solutions can be envisaged for the assets of cryopreserved persons. The most logical would certainly be to open the succession because the resurrection is, at the moment, a simple hope. It would then be sufficient to amend the current article 720 of the French Civil Code so that it specifies that "successions are opened by death and by cryopreservation, at the last domicile of the deceased." But this solution is severe for the cryogenised person, so we could appoint an

administrator to manage his or her assets. But for how long? And for what fee? Finally, it would be possible to ensure a certain legal and patrimonial security to the cryogenised person by offering her the possibility to subscribe, with the cryogenisation contract, [a cryonic trust](#), a new form of trust that already exists in the United States and is proposed by some American companies. However, this solution seems difficult to implement in France where trusts do not exist. The problem is thus far from being solved and [cryonics](#) raises questions still without answers.

This being the case, the best short-term solution seems to be to fire up a copy of the classic 1969 Louis de Funès comedy, [Hibernatus](#), which poses a whole series of knotty – and amusing – questions of its own.

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