



Legal Aspects of Assisted Euthanasia

Andreea CORSEI¹

Abstract: *Assisted euthanasia is a controversial subject that raises numerous legal, ethical and moral issues. It involves the intervention of a doctor or a health professional to facilitate the death of a person suffering from an incurable disease or unbearable pain. Although in some countries it is considered a fundamental right of the patient, in others it is strictly prohibited and punishable by law. The regulation of assisted euthanasia varies significantly internationally, being influenced by cultural, religious and legal traditions. In countries where it is permitted, there are strict conditions that must be respected to prevent abuse. In contrast, in countries where it is prohibited, any form of assisted suicide is considered a crime, attracting criminal liability for those involved. This paper analyzes the main legal aspects of assisted euthanasia, highlighting the legislative differences between various legal systems and their impact on patients and health professionals.*

Keywords: *assisted euthanasia; medical; moral issues*

1. Introduction

Etymologically, the word euthanasia comes from the union of two words of Greek origin, eu meaning "good, good", and thanatos meaning "death". Thanatos was the god of death among the Greeks, brother to Hypnos, the god of sleep, and to the ferryman Charon, the one who ferries the dead across the River Styx (Deaconescu, 2005, p. 100). The first documented use of the term euthanasia was identified in the work *Lives of the Twelve Caesars* by the Latin historian Suetonius. The Roman emperor Octavian Augustus (27 BC - 14 AD) died suddenly in the arms of his wife Livia, at almost 66 years old, having a mild death as he had always wished: "whenever he heard that someone died quickly and without suffering, he asked the

¹ Assistant Professor, PhD, "Petre Andrei" University of Iasi, Vice-Dean at the "College of Legal Advisers Suceava" Association, General Secretary of the "Order of Legal Advisers from Romania" Federation, Romania, Address: Strada Bălușescu nr. 2, Iași 70030, Romania, Corresponding author: office.corsei@yahoo.co.uk.



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gods to grant him a similar euthanasia" (Suetonius, 1998, p. 19). The Roman emperor Hadrian (76 AD - 138 AD) asked his personal physician, Hermogenes, to resort to euthanasia. F.R. Bacon (1561-1621) in his work *The New Organon* relaunched the debate on the types of death from a philosophical perspective and is considered the creator of the term euthanasia (Bacon).

Euthanasia is the deliberate act of ending the life of a patient with the intention of ending their suffering. Physician-assisted suicide is a distinct procedure from euthanasia and represents the self-inflicted death of a patient with the direct help of a physician. The legalization of euthanasia raises heated ethical, medical, legal and religious debates, practically calling into question the limit to which the protection of the right to life must be exercised. Paradoxically, it is precisely the right to life – an essential principle, constituting the indispensable condition for exercising the other guaranteed rights – that does not enjoy the establishment of well-determined boundaries (Pivniceru and Dăscălescu, 2003, p. 114).

Euthanasia is an extremely complex issue, which is practically located at the confluence of life and death, between free will and religious canons, between therapy and deliberate medical intervention to cause death (Marty, 2003, p. 3). Euthanasia or the crime committed in the name of compassion means causing the death of a person, with their consent. The problem arises in the case of patients in the terminal stages of incurable diseases (e.g. cancer), who endure constant and unbearable suffering, without hope of achieving an improvement in their condition (Resolutions of the synods of the Romanian Orthodox Church and the Russian Orthodox Church on bioethical issues. Abortion, euthanasia and organ transplantation available online at: <http://provitabucuresti.ro/docs/bioetica/bioetica.BOR.pdf>).

2. Types of Euthanasia. Euthanasia and Physician-Assisted Suicide

Euthanasia can be of Two Types: Active and Passive

Active euthanasia represents the commission of acts with a view to causing death (such as: disabling a device, administering a drug in a lethal dose, administering a lethal injection, etc.), following a repeated request and long reflection by a patient.

Passive euthanasia consists of not granting or interrupting a treatment, knowing that this will result in the death of the patient in question, especially if there is the possibility of keeping a patient alive through aggressive and useless treatment - a practice otherwise condemned by medical ethics, especially since the person in question has refused this treatment (Marty, 2003, p. 3).

Euthanasia is distinguished from assisted suicide, in which the latter involves a physician or other medical professional assisting the patient in committing suicide, at the patient's repeated and well-considered request (e.g., the patient is given a prescription for a lethal substance, is instructed on how to turn off life support on their own, or is given a mask and a tube with a gas that causes death).

Although the distinction is obvious, in practice the two types of killing tend to be confused, with only the term euthanasia being used.

3. The International Legal Framework for Assisted Euthanasia

The regulation of assisted euthanasia varies considerably at the international level, depending on the legislation of each state and the legal, ethical and cultural principles adopted. Currently, euthanasia and assisted suicide are only permitted in certain countries, under strict conditions, while in other jurisdictions they are prohibited and criminally punishable.

Assisted euthanasia is a legally sensitive subject, located at the intersection of fundamental human rights, medical law and criminal law. Its regulation varies considerably from one state to another, being influenced by cultural, ethical and political factors. The main international legal instruments that establish the general framework for the protection of life are the European Convention on Human Rights (ECHR), the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).

a. Legal protection of the right to life in international law

Article 2 of the ECHR states that "everyone's right to life shall be protected by law" and that "no one shall be deprived of his life intentionally except in execution of a sentence passed by a court" (Binder, 2015).

This article is interpreted by the European Court of Human Rights (ECHR) as a positive obligation of states to protect the lives of citizens, which has led to decisions upholding the prohibition of assisted euthanasia in certain jurisdictions.

A relevant example is the case of *Pretty v. United Kingdom* (2002), where the ECtHR ruled that the prohibition of assisted euthanasia did not constitute a violation of fundamental rights, reaffirming the principle that the right to life does not automatically imply a "right to die".

The court argued that states have a margin of appreciation in regulating this issue and that the prohibition of euthanasia aims to protect vulnerable persons against abuse and external pressure.

On the other hand, Article 8 of the ECHR guarantees the right to respect for private and family life, and some interpretations have argued that this article could also include the right of the individual to decide when and how to end his or her life. However, the ECHR has refused to impose an obligation on member states to legalize assisted euthanasia, recognizing that this decision must be made in accordance with the legal traditions and ethical principles specific to each state (Ovey, 2010).

In terms of international law, the International Covenant on Civil and Political Rights (ICCPR), adopted by the UN in 1966, protects the right to life in an absolute manner. Article 6 of this covenant states that “the right to life is inherent in the human being” and that “no one shall be arbitrarily deprived of his or her life” (UN Human Rights Committee, 2018). According to the interpretation of the UN Human Rights Committee, assisted euthanasia can be regulated by states, but there is no international obligation to allow it.

b. Position of international organizations on assisted euthanasia

The United Nations (UN) and the World Health Organization (WHO) have not issued binding guidelines on assisted euthanasia, leaving this decision to each state. However, the WHO has highlighted the importance of palliative care as an alternative to euthanasia, stressing that “States should ensure that terminally ill patients receive appropriate care to reduce suffering” (World Health Organization, Palliative Care Report, 2014).

On the other hand, the Council of Europe, in Resolution 1859/2012, reaffirmed that “euthanasia, in the sense of the intentional killing of a person by an act or omission, shall be prohibited”, stressing that the protection of human life is a fundamental principle of the rule of law (Parliamentary Assembly of the Council of Europe, 2012).

4. Regulation of Assisted Euthanasia in Romania

In Romania, assisted euthanasia remains strictly prohibited, being penalized according to the Penal Code. Current legislation does not recognize the right of patients to legally request the end of their life, regardless of their suffering, and any form of assisted suicide is considered a crime.

Although in other countries a trend is observed to legalize euthanasia under strict conditions, Romania maintains a conservative position, emphasizing the protection of life and the development of palliative care as an alternative. The strong support of the Romanian Orthodox Church and the lack of a social and political consensus make a legislative change in this regard unlikely in the near future.

The regulation of assisted euthanasia in Romania reflects the legal and moral values of today's society, but remains an open subject for debate, especially in the context of international developments regarding patients' rights to a dignified death.

In Romania, euthanasia and assisted suicide are prohibited by law, and any act of this type is considered a crime. The Romanian legal system reflects the principle of protecting life as a supreme value, as enshrined in Article 22 of the Romanian Constitution, which stipulates that "the right to life and to the physical and mental integrity of the person are guaranteed".

a. Applicable Legal Norms

The Romanian Penal Code sanctions euthanasia through several provisions:

- o Article 190 of the Penal Code: "Murder committed at the express, serious, conscious and repeated request of the victim" constitutes a crime and is punishable by imprisonment from 3 to 7 years.
- o Article 191 of the Penal Code: "The act of determining or facilitating the suicide of a person" is sanctioned by imprisonment from 2 to 7 years, and if the victim is a vulnerable person, the punishment can reach up to 10 years.

b. Legislative Perspectives and Reform Proposals

Currently, assisted euthanasia is strictly prohibited in Romania, and a legislative change in this regard does not seem imminent, due to institutional, religious and political opposition. However, the debate on the right of patients to a dignified death is becoming increasingly present in Romanian society, against the backdrop of legislative developments in other European countries.

A possible reform should consider both international regulatory models and the cultural and legal particularities of Romania. At the same time, the development of palliative care and medical services for terminally ill patients could represent a viable alternative to the legalization of euthanasia.

Although the legalization of euthanasia in Romania is still a sensitive and controversial topic, social pressure and international developments could determine, in the future, a reassessment of the legislative position, either by regulating limited forms of assisted euthanasia or by improving medical alternatives for suffering patients.

Therefore, in Romania, there have been no significant legislative initiatives regarding the legalization of assisted euthanasia. However, the phenomenon of Romanian patients resorting to assisted suicide in Switzerland suggests that there is a real need for legislative debate on this topic.

Arguments against legalization include:

- The absolute protection of life as a constitutional principle;
- The risk of abuse and pressure on vulnerable persons;
- The position of the Romanian Orthodox Church, which considers euthanasia an immoral act.

On the other hand, supporters of legalization argue that the patient's right to self-determination must be respected, especially in the case of terminal suffering. A compromise model could be the adoption of strict regulations that would prevent any possible abuse, like the legislation in Belgium or the Netherlands.

Therefore, assisted euthanasia is an extremely complex subject from a legal perspective, placed between the protection of the right to life and the respect for the patient's autonomy. In Romania, the ban on euthanasia reflects legal tradition and cultural influences, but there are signs that a legislative debate may become necessary in the future. Until then, the state's position remains one of absolute protection of life, without exceptions in favor of assisted euthanasia.

5. Conclusions

Assisted euthanasia remains a controversial topic, situated on the border between the right to self-determination, medical ethics and the legal protection of life. Although in some countries it is recognized as a patient's right and regulated by clear laws, in many others it is considered illegal and criminally punishable. The legislative differences reflect the cultural, religious and moral variations that exist globally.

From a legal point of view, the main challenge is the balance between respecting patient autonomy and preventing abuse. Countries that have legalized assisted euthanasia have imposed strict criteria to ensure that this practice is applied only in extreme cases, where suffering is unbearable and there are no other viable options. On the other hand, countries that prohibit it emphasize the protection of the right to life and the development of palliative care as an alternative.

In conclusion, the legal aspects of assisted euthanasia are complex and require a balanced approach that considers both the fundamental rights of patients and the moral and social implications. The debate over its legalization will continue to evolve as societies reevaluate their values and priorities in the areas of law and public health.

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