

# Human Dignity and the Right to Death: Euthanasia in Albania Legislation

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## Abstract.

Human dignity and the right to die in the sense of understanding Euthanasia and its application to the corpus of normative discourse brings a challenge to every study and scholar. Since the right to life is one of the indisputable fundamental rights firmly established in every national and international normative act, it brings a problem in the application of euthanasia, or the desire to die. For this study dwells extensively on the analysis of meaning, the legal regulation of the concept of human dignity as a step to then understand the right to die and the application of euthanasia. The analysis of the study focuses on two main lines, in the first one attempts are made to understand human dignity, euthanasia in relation to it and personal autonomy. While in the second case an analysis is developed for the Albanian legal environment, in an attempt to find an approach that brings innovation and topicality and the example of a country that finds it difficult to draft legislation that supports the application of euthanasia. Although it is worth noting that the will of the individual to decide on the end of his life should be recognized as a legitimate right of his.

**Keywords:** Euthanasia, human dignity, legal acts, Albania.

## 1. Introduction

The current upheavals in the right to life, the desire to claim the existence of a right to die, mainly for particular subjects suffering from incurable terminal diseases bring us the need for a study of Euthanasia, but seen through the concept of human dignity. Because of its ethical, medical, legal, and religious dimensions, euthanasia represents one of the most complex human rights issues. Euthanasia is a topic which has consistently sparked controversial discussions throughout history. The study applies a methodology of qualitative analysis, focusing on the interpretation of national and international normative acts, the interpretation of provisions and scholars that address various concepts of euthanasia and human dignity in relation to the former.

The study seeks to bring a current analysis of the concept of euthanasia examined through human dignity and an analysis of the Albanian legal framework on how to regulate euthanasia. For this the analysis initially focuses on an interpretation of the key human rights acts that have brought about and disciplined human dignity. A possible relationship of human dignity and euthanasia, through a doctrinal attempt at the possibility of understanding this relationship. As well as bringing in a separate issue of human dignity in approach to personal autonomy.

Another issue with a special focus on the study is related to the application of euthanasia in the Albanian case, mainly through the study of the Albanian legal framework that regulates

euthanasia and its possible cases. In this context, the legal qualification of the offense in the Albanian legislation according to the discipline of the Albanian legal framework has been analyzed. A case that does not find room for the application of euthanasia as a new approach that does not find application both in cultural and medical terms and in terms of legal regulation.

## 2. Human dignity in human rights acts

Human dignity is an immanent value of the human being based on the respect that a person has for himself. Dignity is an intangible quality of the human being, as a fundamental right, innate, inviolable and inalienable, among other things, by its rationality and creative power. Author Jacobs states that: “the main value is not life itself as a biological phenomenon but its quality, life cannot be reduced to just living, but means living properly with dignity” (1999, p. 68). Whereas for Donald, “dignity represents, in fact, the cornerstone of the constitutional principles, which constitute the basis for the recognition of equality and the fundamental rights of every individual” (2001, p. 178).

The German philosopher Immanuel Kant has given the most significant definition of human dignity. Human dignity means that human beings have an inalienable and invaluable moral value. He differentiates between two kinds of things: things that can be valued and things that have dignity (Hill, 2014, p. 215-222). Things that have dignity have a moral value and can have no price. Human beings are different from other things in the world e.g. animals, plants, rocks, buildings, because human beings have dignity (Sensen, 2011, p. 166).

The principle of respect for human dignity is part of the basis for drafting national and international human rights conventions, as part of a preamble or an objective. It has a fundamental moral and legal value, which has been declared by international bodies, religious institutions, and sovereign states (Manderson, 1999, pp. 39-45). Dignity is reflected in many national constitutions, international conventions and declarations. Dignity must be respected, so much so that, despite its long history, it has already been recognized, since World War II with the Universal Declaration of Human Rights, adopted in 1948, and of which two articles strongly call us for reflection: Art.1 states that: *all human beings are born free and equal in dignity* and; Art.5 (right to human dignity): *No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment*.

The right to life cannot be limited to mere living, but means to live adequately in conditions of dignity (Mann, 1998, pp. 30-38). Following the decision to open the Preamble to the Universal Declaration of Human Rights, stating that: “the recognition of the inherent and *equal dignity* and inalienable rights of all members of the human family are the foundation of freedom, justice and peace in world”, many documents, declarations, legislations are based on the notion of human dignity across the globe (Weinrib, 2016, p. 306-310).

In 1986, the UN General Assembly set international standards in the field of human rights, and one of those standards requires that “*all human rights instruments be derived from dignity as an inherent value of the human person*” (Resolution 120/41). Other documents governing both international law and global order (Muench, 1986, p. 400) are the Geneva Conventions (1949), which emphasized the importance of dignity in Art.3 and their Additional Protocols. The UNESCO Universal Declaration of Bioethics and Human Rights (2005) states that: “ethical issues raised by rapid advances in science and technological applications must be examined with due regard for the *dignity* of the human person as well as respecting fundamental

human rights and freedoms”. However, despite what is set out in international agreements on the importance of the notion, there is no universal definition of dignity (Spiegelberg, 1970, p. 278).

There are also some Charter of Human Rights which do not explicitly mention dignity such as the European Convention on Human Rights (ECHR) (1953), but despite not mentioning itself, there is a general agreement stating that: dignity is the ultimate goal and foundation of human rights systems. The ECHR sanctions that “the right to dignity is indivisible, inalienable, equal for all members of society” (Daly, 2012, p. 200). This agreement is clearly reflected in the statement of the *Strasbourg Court in Pretty v. The United Kingdom* which states that: *the essence of the Convention is respect for human dignity and human freedom*.

Also, the EU Charter of Fundamental Rights is one of the texts that sanction the principle of respect for dignity in its first article. It sanctioned that: “Human dignity is inviolable. He must be respected and protected.” All rights enshrined in the Charter must be exercised in proportion to human dignity because human dignity is the basis of fundamental rights. It must be respected even when a right is restricted (McCrudden, 2008, p. 660). The right to human dignity indirectly recognizes the equality of human beings. Everyone has a value that is independent of social status, economic productivity. Equality of values means that this value is the same for every human being, regardless of sex, race, ethnicity, social origin, age, etc.

The Oviedo Convention, The Convention for the Protection of Human Rights and the Dignity of Human Being (1999) states in Art.1 that: “The Parties referred to in this Convention protect human beings in their dignity and identity and guarantee it to every person, without discrimination, respect for integrity and other fundamental rights and freedoms in relation to the applications of biology and medicine”. Another important statement is that of the Council of Europe which states that: “The end of life and the questions that arise in terms of the dignity of the person are one of the current concerns of the EC Member States, despite the differences in cultural and social approaches”.

All of the above international human rights instruments refer to human dignity in relation to the term “natural”, which states that it is something fundamental to every human being and that this innate value cannot be legally removed from authorities. In any case, human dignity is considered an *erga omnes* right and is characterized by inviolability and impossibility of availability, though not in an absolute sense (Carozza, 2011 p. 459).

### 3. Human dignity and euthanasia

The right to die with dignity is a fundamental human right and the dignity of the human being is an autonomous right, it is an extraordinary value endowed with freedom, rationality and autonomy of will or free will. These rights accompany the human being from its formation, and throughout its development. The rights enshrined in international agreements stipulate that the duty of the State to protect life must be consistent with respect for human dignity and the free development of the personality (Dupré, 2015, p. 715-719). Thus, it is easy to ascertain that it is human dignity from which the values and other rights of the human being are constructed and born. This dignity of the human being is recognized by all persons and constitutes a primary right and fundamental obligation of every state to protect it. Therefore, without going into the details of comparative legislation, we can state that most of the constitutions of countries declare human dignity as the main function of the State and that not only proclaim it, but it is also protecting it. Referring to this doctrine, we can say that “dignity is a notion that can have a strong emancipatory burden, above all in the sense of strengthening the social rights of

individuals. Dignity is an instrument that can be used to expand the sphere of autonomy of individuals” (Weinrib, 2016, p. 306-310).

When discussing euthanasia, it is emphasized that it respects the human right to die with dignity. If dignity is a feeling that man conceives with his own eyes, then he remains a variable and a dignified life for one, may not be dignified for another. Human dignity is degraded in situations when individuals suffer from various incurable diseases, irreversible physical injuries, that other internal organs are destroyed over time until the loss of their vital functions. When modern medicine is powerless to help, usually the person is caused feelings of inability, and seeks to end life, due to the lack of desire to live in severe physical and psychological conditions (Manderson, 1999, p. 39-45). The only way to avoid degeneration of human dignity is to give a person the opportunity to make decisions for the rest of his life, including a possible decision to end his life. The lives of people who suffer from an incurable disease or are trapped in a body trap, especially when the medications they take can cause recurrent and permanent loss of consciousness is not seen as dignified.

Under such conditions, life according to them is no longer dignified and therefore euthanasia is required. The “right to die” would give a person the opportunity to deprive himself of his life, ending suffering and exercising his right to dignity. In the debate over euthanasia the notion is applied in diametrically opposed ways, both by supporters and opponents. Conflict stems from the confusion of perceiving dignity as something natural to a human being. Scholars who defend the role of dignity often refer to its two dimensions (Richardson, 2000, p. 140).

- *The first dimension* is subjective, reflecting the individual’s perception of a dignified death. Subjective dignity places the freedom of everyone at the center of everything. He remains inseparable from man. This means that to deny a sick person the act of euthanasia is a violation of the subjective right to dignity, because in essence denying him the freedom to choose when his life would end.
- *The second dimension* is general and applies to all human beings. Dignity is an inseparable characteristic of the person that can neither be changed nor developed. So, if dignity can be achieved through the enjoyment of human rights, but at the same time it is also a natural and permanent constant for all people can we really talk about life without dignity?

This means that, human dignity means much more than just respecting the rights of an individual, is a natural characteristic that is inviolable. Dignity in the most personal, subjective dimension is of great importance to all of us and each individual should have the right to define his or her idea of a dignified death. The principle of dignity is considered a fundamental principle both by those who attempt to legitimize euthanasia practices and, conversely, by those who say that dignity is manifested in the acceptance of death as a natural fact (Weinrib, 2018, p. 218).

#### **4. The concept of dignity and personal autonomy**

An essential element of dignity is personal autonomy which plays a major role in euthanasia debates. The right to autonomy is the ability of a person to think rationally, to determine the rules of living, to make decisions and to implement them independently. Autonomy in this context is understood to be reflected in every decision made by an individual who has given his consent (Singer, 1995, p. 207). Consent is given when the patient understands his medical condition, his range of treatment, palliative care, options, as well as

the consequences of each choice, and after proper consideration, decides to execute the decision. Therefore, the dignity of an individual is respected, only if his requirements and choices are met autonomously.

In cases of euthanasia claims, when an individual makes an autonomous decision to end life, the dignity attributed leads to the acceptance and respect of the choice made, as a way of reaffirming the value and dignity of the individual. The right to die with dignity is presented as an extension of personal autonomy: the right to live life according to the vision of the individual himself, unbounded by the views of others. Everyone has the right to live life the way they want and every person has the freedom to choose what he believes is best for him.

The right to autonomy is more related to a person's self-determination to choose certain behaviors, while the right to freedom is related to the exercise of self-determination. Giving the right to autonomy to a person means that society sees the individual as an intelligent being who is able to assess the consequences of a possible pattern of behavior and act in accordance with the will formulated by that assessment. The prohibition of the "right to die" can be seen as a restriction of a person's right to autonomy. Individuals are free to decide what they consider appropriate and to act according to their decision (Gumbis, 2003, p. 51-52).

The basic principle of personal freedom is practically applicable to euthanasia. The right to free development of personality is established on the basis of rights, the object of which has the peculiarity of protecting a sphere of life of the individual, i.e. the construction of his life plan or project and closely related to the fundamental right of human dignity. The essence of this right protects the general freedom of action, closely related to the principle of human dignity (Dupré, 2015, p. 715-719). Kant's principle of universal freedom: "An action is in accordance with the law when it allows the freedom and discretion of everyone to coexist with the freedom of all according to a universal law". According to this principle, "I have the power of reason, creative power, freedom, autonomy of will and decision, which I can fully exercise, as long as it does not affect the discretion or rights of others" (Sensen, 2011, p. 166).

This is the principle of universal freedom, and accordingly we can conclude that we have the right, discretion, to die with dignity, according to our convictions and beliefs, as my discretion, my ability to decide, my autonomy, indeed, can coexist at the discretion of others. In other words, in the free development of personality, the autonomy of the will, I can exercise my habits and rights as long as it does not affect the rights of others.

The suffering of patients is too intimate and personal for the state to intervene by insisting on its vision to end life. Moreover, the fate of a terminal patient must be shaped by his own spiritual conception. Patients with terminal illness have great physical and mental pain and suffering, and euthanasia is a way to save them from their miserable situation by putting a merciful end to their lives. Prohibiting euthanasia would impose a horrible and painful death and is a concern for human dignity: It is cruel to deny a dignified death to those who experience great pain and their death is inevitable.

Society can abolish the right of autonomy of the will and self-determination of a person, only when it comes to a virus, epidemic, contagious diseases, in which the state imposes the protection of the legal interest of third parties, health and life. The latest case of Covid-19, although the numerous deaths due to coronavirus are a debate in themselves in relation to euthanasia. But in the case of a particular decision in an illness which does not affect the collective interest, nor does it affect the health of the family environment, or of the health professionals who frequent it, this restriction could not be imposed on the exercise of voluntary autonomy and self-determination.

This is why, in analyzing the situation, it seems that the only limitation it tries to impose on self-determination is based on values, moral or religious principles, which, again, are relative, not being able to accept the moral criterion that belongs to each human being, which may prevail over the interest of a community that thinks that such a moral or ethical value cannot be detrimental to the full exercise of self-determination (Carozza, 2011, p. 460). We also emphasize here the double standards that some professionals, especially health professionals, debate.

According to them, the right to die with dignity should not be accepted, i.e. they do not agree with euthanasia, while they themselves accept, and are obliged by Article 83 of the Code of Medical Ethics, which stipulates that: “When a sick patient terminal suffers from severe pain, doctors should allow the use of analgesics in sufficient doses in order to alleviate suffering. In cases where with the progressive increase of potent analgesics (morphine type, or the like), the vital process may be shortened, treatment should again be continued prioritizing the analgesia target as the main effect required, over the eventual undesirable effect” (Fabian, 2010, p. 207).

In other words, they declare that they do not accept euthanasia, but seem to promote it through the use of powerful analgesics. Isn't this an involuntary euthanasia? Is not this an indirect euthanasia? It must be said, however, that, and why they do not agree with the right to die with dignity, or with euthanasia, they apply it in practice, in terms used in general, with the use of medicines and analgesics.

In such a circumstance, the patient seeks the help of the doctor to die because a dignified death is the kind of death, he himself desires. In this situation, both the patient and the doctor do not perform an immoral act. Adopting euthanasia policies would give sick patients the opportunity to turn to physicians to end their lives, at a time and in a way that reduces their suffering while protecting personal dignity. In these cases, the choice to end their lives is believed to be a dignified death. Having dignity means being able to look at oneself with respect and with a certain degree of happiness (Manderson, 1999, p. 39-45).

As mentioned in the introduction, human dignity is understood to be the basis for human rights and therefore a human right to euthanasia should be envisaged. Therefore, if there was a universal understanding of what exactly human dignity entails, it would also accept the subjective dimension that could lay the groundwork for euthanasia as a human right. Especially all human rights systems must be guided by an unwavering commitment to protecting dignity. If euthanasia were to be added to the existing human rights catalog, it would mean that individuals could enforce their euthanasia claims with the help of international human rights regardless of the legal status of euthanasia in their country of origin (Richardson, 2000, p. 140).

## **5. Euthanasia in Albania legislation**

In Albania, euthanasia practices are still extremely unusual. Albanian legislation has not provided for any provisions regarding the limits or withdrawal of treatment and the application of euthanasia. Consequently, this limits the choices of the individual. Given the fact that there is no concrete provision regarding euthanasia, a legal vacuum is created which creates room for abuse regarding the legal qualification of the offense and by violating the defendants' procedural and material rights. The lack of legislation directly results in the tacit denial of the right of everyone to die with dignity. To date, there has been no case of prosecution or sentencing of doctors for euthanasia in Albania.

However, what is applied in Albania is passive euthanasia of terminally ill or injured, where the medical team, due to the still backward state of medicine, lack of modern equipment, has been forced to accept passive euthanasia (Shegani, Muçmataj and Kristo, 2006, p. 30). Decisions to end life, policies of refusal of treatment from a legal point of view involve considerable risk on the part of the doctor in Albania. From an ethical point of view, Article 20 of the 1998 Deontological Code expressly provides that: “Relief of suffering and pain is one of the basic principles of medicine. Accelerating the end of life is against medical ethics”.

The problem arises in relation to active euthanasia. If we refer to the Criminal Code, we note that the taking of life by persons who desire it using as a means to achieve the goal, another person, is not explicitly provided in any of its provisions. Thus, there is a need to refer to other provisions of the Criminal Code. So when we are faced with such a situation, we will not be clear what legal qualification we will make to the offense, violating on the other hand the principle of legal certainty (Elezi, Kaçupi, and Haxhia, 2001, p. 235).

From the legal-criminal point of view, euthanasia consists of a conscious act intentionally performed by a person who puts an end to the suffering (physical or mental) of another person (Elezi, Kaçupi, and Haxhia, 2001, p. 235). With regard to euthanasia, we can refer to crimes against life committed intentionally provided by the Criminal Code. The process of euthanasia is considered as “accelerated death at the time when the person suffers from an incurable, deadly disease or that causes serious physical abnormalities which aggravate the mental, emotional or physical condition of the patient. Death that can be caused in different ways and by different subjects based on the clear and continuous desire of the patient, with the interest only to end his suffering”. So, this process ends with the death of one person, as a result of an action of another person. We therefore conclude that euthanasia is considered a merciful murder.

According to the legal doctrine, murder will mean that illegal act committed by action or inaction, intentionally or by negligence by which a person’s life is taken (Elezi, 2009, p. 35). Article 76 of the Criminal Code, i.e. intentional homicide, can be considered as an appropriate provision to apply in the case of active euthanasia. Criminal responsibility for committing murder requires the combination and existence of objective and subjective elements. The death of the person is the consequence, the necessary element of the objective side of the murder. Objectively, the criminal offense of intentional homicide is characterized by illegal actions or omissions committed in special circumstances, instantaneously, between the perpetrator of the murder and the victim and certainly committed unintentionally (Elezi, 2009, p. 35). In the case of euthanasia application, the person who takes action to end someone else’s life, it is noticed that these actions are premeditated and based on the will of the individual, his prior consent and are not actions which performed in the circumstances of the moment, but are premeditated.

So, if we refer to the subjective side of intentional murder, we see that the act is committed unintentionally, the purpose and motives arise immediately (Elezi, 2009, p. 39-40). The perpetrator foresees the real possibility of the consequence and wants it, i.e. the death of the person, or consciously allows the consequence to come. The case of murder in a state of euthanasia has been discussed in the world criminal legal literature (Naqellari, 2009). However, based on the constitutional principle of protection of life, the right to life and the humane principle that forces the doctor to fight to the end for the extension of life, we think that murder committed in a state of euthanasia, although not expressly provided by any article of the Criminal Code may be qualified under Article 76 of the Criminal Code.

Article 78 of the Criminal Code, premeditated murder, may be a reference provision for the case of active euthanasia and respectively the subjective side of the criminal offense. Subjectively, premeditated murder is committed with direct intent, premeditated by a certain motive. In the case of active euthanasia, since it is considered as a premeditated human act by which the desired result is achieved, “death”, the main element is premeditation as in the above-mentioned criminal offense, so the person has previously foreseen all the circumstances before than to commit the decisive act which is murder. But again, this provision cannot be fully applicable because in euthanasia the essential condition is that the decision be well thought out but also carried out in a normal mental state (Elezi, 2009, p. 49). As above, euthanasia is essentially considered an act performed with the intent to hasten death for those incurable sufferers suffering from great and uncontrollable pain, physical and psychological, who seek the act directly and with full will, repeatedly and clearly (Frey, Dworkin and Bok, 1998, p.201-209).

Article 79 of the Criminal Code which provides for murder in other qualifying circumstances such as murder committed against a person with physical or mental disabilities, seriously ill or pregnant when the circumstances that characterize the object of the crime, i.e. the qualities of the victim are obvious or known to the subject of the crime only in this way can I meet the elements for the legal qualification of this offense. Euthanasia is considered as a premeditated human act by which the desired result is achieved, ‘death’ through direct physical intervention with controlled means or substances in the patient’s body. In the absence of this intervention, the patient would continue to live for a really limited but indefinite period of time, within the limits of anticipation of the medical diagnosis.

Usually, the decisive act is a lethal injection or administration of poisonous drugs resulting in the inevitable causing of rapid and painless death. The decision for active euthanasia can be made by the person / patient himself, if he is able or a relative of the family circle or the doctor who attends and is responsible for it. The act is committed intentionally, with the full will of the patient. The motive is clear to end the physical and mental suffering which is unbearable and makes the patient live without dignity. The inability to find death is clearly materialized through the request to the perpetrator of the murder, for the fact that they have physical defects or suffer from a disease that causes severe physical or mental pain, which is incurable (Elezi, Kaçupi, and Haxhia, 2001, p. 235). The person who applies the euthanasia act is aware of these qualities that the person has but performs the act in order to avoid unnecessary pain and suffering, in a humane way.

From the above we can conclude that Article 79 of the Criminal Code is the most appropriate provision to be applied in cases where law enforcement officers encounter the application of euthanasia. Our case of euthanasia best fits this provision because all the elements of the figures of criminal offenses are almost the same (Elezi, 2002, p. 30). Albanian criminal legislation does not define any change whether the murder was committed at the request of the victim or not. Logically, law enforcement officers, if faced with a predominantly active euthanasia case, would classify the offense under paragraph b of Article 79 of the Criminal Code which protects the lives of seriously ill persons and would apply imprisonment ranging from 20 years of life imprisonment.

In conclusion, we present the need for legal regulation of the euthanasia act in the Albanian state, as it is now widely practiced in secret, without medical conditions and without criteria, often being considered as suicide. Since euthanasia already occurs in practice, it should be institutionalized and regulated by adopting safeguards against its abuse. It is precisely this

reality that increases the chances of abuse, as decisions are made in secret and arbitrary ways, without obtaining the consent of the patient himself (ECtHR, no. 48335/99, 26.10.2000, *Sanles v. Spain*). The pressure that can influence end-of-life decisions can be more damaging and fatal if taken illegally. The vacuum between law and practice must be reconciled if respect for the law is enforced, and abuses are likely to be reduced (Parliamentary Assembly of the Council of Europe, 2003, p. 4). This means that, as long as euthanasia is not legalized it will continue to be executed in other forms. It would therefore be better to rethink its legalism, so that the situation is more controllable.

National authorities are not obligated to prevent individuals from ending their lives if this decision is made with the free and unintended will of the person concerned (Dowbiggin, 2003, p. 220). To ensure a voluntary uninfluenced decision-making process, national authorities must establish effective procedures (Lewy, 2011, p. 190). The legal regulation of euthanasia in an absolute way is appropriate to prevent such situations from arising which are likely to bring about the risk of an abuse. Misuse of euthanasia negatively affects the free display of self-determination. Therefore, the State should facilitate the end of life based on a responsible decision that allows individuals to leave life legally and safely without undue suffering, especially when efforts “are unsuccessful and have serious consequences for the individuals in question and for their families”. It will be emphasized that the right to life should not become an obligation to live.

## 6. Conclusion

From the analysis made during this paper it is understood that the duty of the State to protect the right to life, should be consistent with respect for human dignity and free development of personality, referring to the rights provided in international agreements. Euthanasia, or ‘right to die’, would give a person the opportunity to deprive himself of his life, end suffering, and exercise his right to dignity. Denying this right and forbidding a sick individual suffering from unbearable pain to remain in such an inhuman condition is incompatible with human dignity. Euthanasia is not a crime caused for profit or interest it remains a part of self-determination based on which individuals decide for themselves whether they want to live or want to leave life and it is clearly an act committed for humanitarian reasons and does not pose a danger to anyone. Regardless of the personal decision, the person concerned always maintains his human dignity in the legal sense.

Society can abolish the right of autonomy of the will and self-determination of a person, only when it comes to a virus, epidemic, contagious diseases, in which the state imposes the protection of the legal interest of third parties, health and life. Currently if we refer to the pandemic situation of COVID-19 which still continues to coexist in our society, we are aware of the application of euthanasia even involuntarily way due to the impossibility and lack of necessary capacities to keep alive all infected patients. Occurring in such a pandemic situation the autonomy of the will and the self-determination of the individual was maximally limited almost impossible, to make a choice between the right to live or the right to die. But in the case of a particular decision concerning an illness which does not affect the collective interest, nor does it affect the health of the family environment, or of the health professionals who attend it, this restriction cannot be placed on the exercise of autonomy of the will and self-determination.

As long as euthanasia is not legalized, it will continue to be executed in other forms, without medical conditions and without criteria which would lead to an increase in abusive

cases that could often be hidden under the qualification of suicide. It would therefore be better to rethink its legalism, so that the situation is more controllable. Euthanasia involves irreversible actions that run counter to a deeply rooted principle like that of life, so it is necessary to design a strong legal framework that would accurately describe every aspect, and every stage of an euthanasia act, every rule that must be followed by the patient and the physician. It could then be said that the act would be orderly and would not deprive anyone of life who did not want it.

In Albania, as stated above, theoretical concepts exist, but there is a large legal vacuum regarding euthanasia. It may be thought that the lack of legislation on the latter results in the tacit denial of the right of everyone to die with dignity. While from the analysis of the Albanian criminal legislation there is an almost unacceptable legal situation, because there is a discrepancy between the social danger of the criminal act considered as intentional, premeditated or qualified murder and the social danger that euthanasia presents, after committing a such action there must be a clear and persistent requirement of the seriously ill patient. This action is performed for positive reasons, such as the feeling of compassion for the patient in the last stage of life, when life itself has lost its purpose and the individual himself cannot cope with all the physical and mental suffering and not for any personal interest. Of course, this is a risky initiative, and in the absence of this, the legislature or case law must decide on the matter because there is a discrepancy between the purpose of the law and its content. Such an action should not be provided for in any provision of the Criminal Code and the person who applies euthanasia should not be prosecuted.

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