

## LEGAL APPROACH TO EUTHANASIA IN TURKEY AND THE WORLD<sup>1</sup>

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### ABSTRACT

In this study, the data obtained from open sources, international and Turkish judicial decisions were analyzed and how euthanasia was approached in terms of patient rights was examined.

Conceptually, euthanasia is the medical killing of a person in pain, where death is imminent and inevitable, and according to medical science, there is no cure. Or medical aid is cut off and left to die. TDK defined euthanasia as "the right to die". Euthanasia is a request to give up one's right to life. According to the Turkish legal system, a person has no authority to dispose of his body (AY art. 17). However, the patient has the right to seek help from the physician within the framework of his autonomy and right to decide about his future in order to end his suffering. This right should be further expanded in terms of health law, taking into account basic human rights. Otherwise, the patient will have to endure the pain and suffering caused by the disease for the rest of his life. Due to the fact that the subject of the study concerns health law, it is aimed to contribute to the studies of legal assurance of the right of the patient to decide on the end of his life.

**Keywords:** Patient, Physician, Patient Rights, Euthanasia, Autonomy.

## DÜNYADA VE TÜRKİYE'DE ÖTANAZİYE YASAL YAKLAŞIM

### ÖZET

Bu çalışmada açık kaynaklardan, uluslararası ve Türk yargı kararlarından elde edilen veriler analiz edilerek, hasta hakları açısından ötanaziye nasıl yaklaşıldığı incelenmiştir.

Kavramsal olarak ötanazi, ölümün yakın ve kaçınılmaz olduğu ve tıp biliminin verilerine göre iyileşme olanağı olmayan acılar içindeki bir kişinin, tıbbi yollarla öldürülmesidir. Ya da tıbbi yardım kesilerek ölüme terk edilmesidir. TDK ötanaziyi "ölme hakkı" olarak tanımlanmıştır.

Ötanazi kişinin yaşam hakkından vazgeçme talebidir. Türk hukuk sistemine göre, kişinin vücudu üzerinde tasarruf yetkisi bulunmamaktadır (AY md 17). Ancak hastanın yaşadığı ızdırabın sona erdirilmesi için özerklik ve geleceğiyle ilgili karar verme hakkı çerçevesinde, hekimden yardım talebinde bulunma hakkı bulunmaktadır. Bu hak temel insan hakları dikkate alınarak sağlık hukuku bakımından daha da genişletilmelidir. Aksi halde hasta, hastalığın neden olduğu ağrı ve acıya yaşamının sonuna kadar katlanmak zorunda kalacaktır. Çalışma konusunun sağlık hukukunu ilgilendirmesi nedeniyle, hastanın yaşamının sonuna karar verme hakkının hukuki güvenceye kavuşturulması çalışmalarına katkı sunması amaçlanmıştır.

**Anahtar Kelimeler:** Hasta, Hekim, Hasta Hakları, Ötanazi, Özerklik.

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## LOGIN

Francis Bacon defined the concept of euthanasia as a good, beautiful, sweet death. (Maurach et al., 2003: 1-9)

The aim of euthanasia is to end the pain and suffering of the person who has been exposed to an incurable disease, with medical intervention by the physician, and to accelerate an easy and comfortable death without suffering. Medicine and legal science attribute different results to the phenomenon of death, which is a biological change. (Unver, 2001:27;Gonenec,2017:104)

It is stated that the word euthanasia was used for the first time as the Roman historian Suetonius "Euthanasia". (Güven, 2017:32-55)

Historically, some communities gave Frankincense oil to the unhealed patients to hasten their death, while some communities left unhealthy children on the mountainside to die. There is information that the aging family members of the Eskimo society were left to die in the glaciers and faced the same fate. Parallel to the spread of Christianity, there has been a remarkable decrease in the number of people euthanized.

It is stated that the reason for this is the fear of God in people. SirThomas More (1478-1535), who was elevated to the rank of a saint by the church, in his work "Utopia", states that the behavior of a person who is exposed to an incurable disease, although not in the terminal period, but consenting to death, is "both rational and conforming to God's will". (Bertrand, 1983:501,502, (Trans. Sencer, Muammer 1983:501-502).

Many people today feel that requesting euthanasia is a much-needed right. There are many cases on the subject that have been brought to national and international jurisdictions. The most influential factor in people's decision to take euthanasia is that they cannot stand the pain they suffer and do not want a dishonorable life.(Kaşıkçı, 2008:85-99).

When the views of science and philosophy thinkers are examined, it is seen that there is a proportional relationship between the rate of ending their lives by suicide and death.

It is seen that all thinkers of science and philosophy are united in the paradigm that human life begins with birth and that the right to life is a human right. However, they have different perspectives on the continuation of life. While some stated that a person could choose death in case of terminal illness, old age, difficulties in life, inability to reflect his will and suffering, the other part opposed this view. (Güven, 2017:32-55).

The modern age puts the human being at the center of the life cycle and cares and protects the right to life of every human being. It deals with the right to the development and maintenance of the personality together with the right to autonomy and dignity.

Although euthanasia is a declaration of will in which people declare their decision in terms of determining their future, the realization of euthanasia decision requires social approval. Because action has a social character. The absolute right of a person over life, health and bodily integrity differs from other absolute rights.

The fact that the physical and mental health of the person does not deteriorate is closely related to the public order. For this reason, consent should not be contrary to morals and public order in order for it to be effective against the law (Dural., Öğüz, 2013:104, 105).

It is a problematic phenomenon that should be focused on who will decide on euthanasia and who will implement it. For this reason, the decision of euthanasia and its execution should be under the permission and control of the state (Aktaş B, Legal Approach to Euthanasia in Turkey and the World, PhD Thesis, Istanbul Medipol University Institute of Social Sciences, Istanbul 2022).

## **1. TYPES OF EUTHANASIA AND SUICIDE ASSISTANCE**

### **1.1. Types of Euthanasia**

Euthanasia is the realization of sudden and painless death by medical intervention to be performed by a physician, generally at his insistent request. In other words, euthanasia, according to medical science data, is the death of a patient, who is in excruciating pain due to an incurable disease, by medical intervention or leaving him to die by cutting off medical aid (Özkara, 2008:105-122).

Humanistic motives can be mentioned among the factors affecting the physician's motivation for euthanasia. In this context, it is one of the factors that affect the motivation of the physician to realize the death of the patient painlessly and early. The nature of the movement is important in active euthanasia. Because the tool used by the physician to perform euthanasia is not a weapon, piercing or cutting tool or equipment.

In other words, it does not end the patient's life by shooting or stabbing. Necessary instruments and tools are used during the practice of medicine. Euthanasia is carried out by using or using the drug by injectable, inhalation, oral or other methods. Passive euthanasia and active euthanasia are essentially the act of realizing death in order to save the person making the request from unbearable pain with the feeling of pity of the insistent demand from the patient (Özen.,Ekici Ş, 2010:25-36).

Therefore, considering the definition of euthanasia, it can be said that euthanasia differs from similar verbs. In this context, it is seen that euthanasia is different from killing on demand and helping suicide (Artuk.,Yenidunya, 1992:297-319).

Although many types of euthanasia are mentioned in the literature, “Active and Passive” euthanasia will be briefly mentioned.

#### **1.1.1. Active Euthanasia**

Active euthanasia is the termination of the patient's life by an executive action. In countries where euthanasia is legally accepted, it is seen as the right of the patient to determine his future within the framework of his autonomy.

Although there is no law enacted with the name of euthanasia in many state laws of Western states and the USA, active euthanasia can be applied in voluntary and voluntary applications by meeting the conditions set forth in legal arrangements made with various names. (See explanations under Section III, 2 below).

However, in countries that accept euthanasia, unlawful acts caused by physicians may face criminal sanctions. (Donmezer.,Erman, 2019:54-55)

### **1.1.2. Passive Euthanasia**

It is the end of the patient's life by taking a negative action or avoiding offering support.

In passive euthanasia, death does not occur suddenly and quickly, but spreads throughout the process. The perpetrator causes passive euthanasia to occur by inaction or a negative act. In other words, passive euthanasia is the failure to provide the support required for the patient's survival by the guarantor or related persons. The things that ensure the continuation of the patient's life are mandatory treatments and life support units.

Withdrawal of the patient from the said support units or stopping the compulsory medical treatment is leaving the patient to die. While "Passive" euthanasia is approached more positively within the framework of the patient's right to decide about the future, "Active" euthanasia is approached more negatively (İnceoğlu, 1999).

In active and passive euthanasia, it is not intended for the patient to die. In order to reduce or eliminate the pain and suffering of the patient, the pain relief agent and dose to be applied to the patient with the knowledge and consent of the patient affects the shortening or ending of the patient's life. According to the 14th article of the Medical Deontology Regulation, the physician is not held responsible for this situation (Official Newspaper. 19 .02.1960-10436).

### **1.2. Difference between Euthanasia and Suicide Assistance**

Conceptually, suicide is ending one's own life with one's own action. According to TDK, suicide is the ending of a person's life under the influence of social and psychological reasons (18.05.2022 20:06 | Last Updated. 24.05.2022 15:58. Access 1.10.2022) Different people commit suicide and euthanasia.

While euthanasia is performed by the physician during the practice of medicine, suicide is performed by the person himself. In this sense, the perpetrators of the two verbs are different from each other. (Gürcan, 2011:255-280). The act of suicide does not constitute a crime. According to Article 84 of the TCK, the crime of directing suicide has occurred.

According to Article 84 of the TPC, any person who "instigates or encourages another person to commit suicide, strengthens someone else's decision to commit suicide or aids someone else's suicide in any way" is sentenced to imprisonment from two years to five years.

Swiss Penal Code Article 115. In the regulation under the title of Killing/Incentive and Assistance to Suicide, a person who assists or encourages someone to commit suicide in order to obtain personal benefit, according to article 115 of “Committing Suicide”, is sentenced to imprisonment for up to five years. will be punished with a fine.

Even if it is a doctor who suggests a method for the patient to end his life, provides the necessary material for him to commit suicide, or puts it with him, as a result of the patient's request, he may face imprisonment or a judicial fine as specified in the Swiss Penal Code. (Aktaş B, PhD Thesis: 60)

The act of performing euthanasia is different from assisting suicide. While the main perpetrator is the patient in helping suicide, the physician is the secondary perpetrator.

It should be noted that, in accordance with the patient's right to decide about her own future, not holding the physician responsible in cases of active and passive euthanasia should be accepted in our legal system, as in other countries.

## **2. RECENT PROCESS OF RECOGNITION OF EUTHANASIA**

### **2.1. Recent Euthanasia**

It is stated that euthanasia was practiced in pre-modern and various societies long before the modern age.

After the second half of the 20th century, some countries allowed euthanasia, sometimes through jurisprudence and sometimes by making legal arrangements (Bilgin, 2013:25-31). The Netherlands, Belgium, the US states of Wermond, Texas, New York, California are some of them. Article of the Austrian Penal Code. Although it does not allow euthanasia with the regulations it has made in 77, 78, 110/1 and 2, it has legally prohibited treatment against the will of the patient.

The rights accepted as a result of the struggle of patients and their relatives, medical and legal people on different dates in the USA have been reflected in legal texts and declarations. In this context, patients or their relatives from time to time, in the states where they live, to cut off life support services, stating that their patients cannot sustain their lives on their own and endure the bad life they are in. Using the accepted rights as a basis, they applied to the courts.

Decisions of the US courts paved the way for the passive euthanasia request to be implemented legally (Sulu, 2011:552-574).

Netherlands Switzerland Australia Luxembourg and many other countries and some states of America have made legal arrangements regarding active euthanasia after a certain period. Some countries, on the other hand, preferred to stretch the subject in their penal laws. Thus, the person's right to determine her future has gained the opportunity to be protected against the State, the society she lives in and the value judgments of the society (B. Serdaroğlu, 2016: 456-487).

However, since active euthanasia occurs in the form of rapid and sudden death of the patient, it is relatively less accepted than passive euthanasia. While passive euthanasia is legally accepted in all states of America, active euthanasia is still prohibited in some states (Besiri, 2009:188-203).

It should be noted that euthanasia remains on the agenda for our country as a fact. It deserves a discussion that extends to the process by considering its drawbacks by the authorities of Medicine, Law, Religion and philosophy, under the leadership of the executive power, together with the rights of the patient.

## **2.2. The Process of Recognition of Patient Rights in the World**

The study, which can be counted among the firsts on the definition and recognition of patient rights, was the "Patient Rights Declaration" published by the American Hospital Association in 1972 in the USA. Lawsuits for violations of rights filed by patients and their relatives at hospitals for various reasons since the end of 1890 and the beginning of the 1990s, Union Pacific Railway in 1891. co. - Botsford, 141 US 250 (1891) Karen Ann Quinlan 1975, E. Bouvia 1983 are some of the cases that contributed to the adoption of the declaration at the national level (Yanardağ, 2016:29-45).

Article 3 of the "Lisbon Patient Rights" declaration published in 1981 states that the patient has the right to accept or reject the treatment of her own free will, without being under any external influence, after adequate information is given by the physician.

In 1992, at the meeting held in Rome by the World Health Organization (WHO) and the European Medical Associations, it was accepted that patients who were determined to be unable to be treated medically had the right to die with dignity. Article 1/2 of the "Amsterdam Declaration of the Rights of the Patient", adopted by the World Medical Association in 1994, states that everyone has the right to determine their own life. In 1995, article 2 of the "Bali Declaration of Patient Rights" regulated the patients' freedom to choose, article 3 regulated the patient's right to self-determination.

Although the aforementioned court decisions and the declarations regulating the patient's rights paved the way for the legal acceptance of the act of active and passive euthanasia, active euthanasia was not accepted at the same rate as passive euthanasia. There is no difference between the two types of euthanasia in terms of results. Passive euthanasia methods extend the patient's life span by spreading the pain and suffering experienced by the patient. Regulations have been made in many laws regarding patient rights, especially in the Constitution. In addition to these, how the patient's rights will be implemented is stated in detail through the Patient Rights Regulation (<https://www.mevzuat.gov.tr> > Access T.12.12.2022).



### 3. EUTHANASIA IN NATIONAL AND COMPARATIVE LAW

#### 3.1. Euthanasia in National Law

Euthanasia has been accepted and legally resolved in some countries. Although many countries, including Turkey, recognize the right to self-determination, dignity, respect for private and family life with their constitutional and legal regulations, they have not changed their attitudes towards euthanasia. Although the legal regulation regarding euthanasia is not made specifically, euthanasia is prohibited according to the Patient Rights Regulation (art. 13). In the Turkish legal system, the approach to “Fundamental Rights and Freedoms”, the rule of law, and prioritizing human values has been given importance and expanded (Articles 17, 19, 20 of the 1982 Constitution). Values originating from being human have been reflected in the field of health as patient rights.

Patient rights are based on national laws and international human rights documents (Özcan., Özel, 2007:50-72).

Although there are positive developments regarding patient rights in our country, it cannot be said that the patient's will is fully complied with. Because the Turkish legal system did not allow the patient to leave medical instructions regarding the end of his life.

It should be noted that an act that can always constitute an element of crime in terms of criminal law may not be contrary to personal rights or an act that is contrary to personal rights may not constitute a crime (Yener, 2016:88).

In the Turkish legal system, it would be appropriate to regulate euthanasia as a separate type of crime based on patient rights.

#### 3.2. Euthanasia in Comparative Law

The act of euthanasia is considered a crime by a significant part of the countries. However, the nature of the crime and its sanction differ from country to country (1992:308-309). The general approach, including the view that euthanasia should be within the scope of the crime, is not demanded by the patient, but the person who performs the act of euthanasia with a feeling of pity and the person who deliberately kills. It is thought that the motivation is not the same.

For this reason, it is stated that it would be appropriate to define euthanasia as a separate crime (Şenses, 2008:215) The majority of the world's countries accept the autonomy of the person, the right to respect his will and determine his future (Kamay, 1952:1-6). The number of countries that ensure that this right is recognized and guaranteed by law and that decriminalizes euthanasia is increasing.

In the United States (USA), passive euthanasia is legally enforceable in all states except states that allow active euthanasia. It is stated that euthanasia is carried out at the request of the patient and his relatives, who have a medically incurable disease, who are bedridden, unconscious or fed artificially from the outside, living on devices, or in accordance with the conditions determined by state laws. (Altunkaş, 2017:75, 76, 77).

California, End of Life Option Act 2016. The effective date of the said law is 9 June 2016. ([http://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&division=1.&title=&part=1.85.&chapter=&article=](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=1.&title=&part=1.85.&chapter=&article=) Accessed: 05/ 05/ 2020).

"Death with Dignity Act" 2008. The law was enacted in Washington State on November 4, 2008 (Washington DC "Death with Dignity Act" 2016), the "Death with Dignity Act" was passed by the Colombian district legislature on December 19, 2016. <https://euthanasia.procon.org/wp-content/uploads/sites/43/dc-signed-law.pdf>.8 (Access: 05/ 05/ 2020).

Vermont, "Patient Choice and Control at End of Life" 2013. The law entered into force on 20 May 2013. (<https://www.healthvermont.gov/systems/end-of-life-decisions/patient-choice-and-control-endlife>,Access. 07/05/ 2020). Maine, "HP 948 , An Act to Enact the Maine Death With Dignity Act" 2019.

(<https://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280072574>. Accessed: 10/ 05/ 2020). New Jersey "Bill A 1504 Aid Im Dying For the Terminally Ill act" 2019

([https://www.njleg.state.nj.us/2018/Bills/A2000/1504\\_I1.PDF](https://www.njleg.state.nj.us/2018/Bills/A2000/1504_I1.PDF) (Access: 10/05/2020).

Colorado "End-of-life Options For Terminally Ill Individuals"2016 (<https://leg.colorado.gov/bills/sb16-025> (Access:10/ 05/ 2020).

Oregon "Oregon's Death With Dignity Act: State of Oregon" 1997. (<https://www.oregon.gov/oha/ph/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Pages/index.aspx>. Accessed 10/07/ 2020.) "End of Life Option" in Montana, State It was legalized by the decision of the Supreme Court. In December 2009, the Montana Supreme Court, Baxter v. In the Montana case, it ruled that there was no legal impediment under existing laws to prevent a physician, at the request of a conscious, terminally ill patient, from assisting his death. In the Supreme Court decision, comparing this situation with the removal of an unconscious but living patient from the life support unit due to public policy and public interest, he argued that Just as a physician cannot be claimed to have committed a legal crime when he removes a patient from the life support unit, it cannot be claimed that assisting a patient who is conscious to die, unlike a patient who has a terminal illness and who is still on life support unit, constitutes a crime in any way.

As a result, the court ruled that it was not a crime for the physician to prescribe medication to hasten the death of a mentally competent patient with a terminal illness, at his request. The court based its decision on the "Terminally Ill Aid Law" in force in the state. (<https://pubmed.ncbi.nlm.nih.gov/20718648/>(Accessed 11/07/2020). Baxter v. Montana (2009 WL 5155363 [Mont. 2009]. Accessed 11/07/2020)

Netherlands, "de Wet teoetsing levensbeëindiging op verzoek en hulp bij zelfdoding" 2001 (Assisted Suicide Law on Demand) In the Netherlands, euthanasia is not only applied to patients suffering from physical pain that is hard to bear. It can also be applied to patients suffering from unbearable pain caused by psychological disorders, upon the request of the patient.



Children between the ages of 13 and 16 may be euthanized by taking into account the will of their legal representative and the child, provided that the specified conditions are met. (<https://wetten.overheid.nl/BWBR0012410/2020-03-19>. (Access: 16 / 07 / 2020).

However, minors between the ages of 1-12 continue to be the subject of legal debate. Because the legal responsibility of the physician who will perform euthanasia in line with their demands is not fully defined in the law. Therefore, euthanasia cannot be applied.

Belgium, "Gesetz über die Sterbehilfe" 2002 (Euthanasia Law), Belgium Euthanasia Law, passed by the parliament on 28 May 2002. "Death Assistance" is provided by the physician upon request from the person. By making a short addition to the law on February 28, 2014, it was ensured that underage patients could also benefit from the law. Euthanasia is allowed for people whose pain and suffering cannot be controlled and who cannot be treated. According to the regulation, euthanasia can be applied after the request of minors but patients with reasoning capacity, and after the approval of their parents and psychologist. In order for the patient's request to be fulfilled, among other conditions, it was stipulated that he should receive counseling from a child and adolescent psychiatrist or psychologist. (<http://www.smse.be/public/pdfs/actualites/Euthanasie/EUTHANASIE08.pdf> (10/ 5/ 2021).

Switzerland, The regulation on euthanasia in Switzerland has been made in Articles 114 and 115 of the Swiss Penal Code. Switzerland is the country where the citizens of countries where euthanasia is prohibited visit the most, under the name of health tourism. Under Swiss law, a third party cannot directly assist a person who has committed suicide. However, he can leave the drug in a suitable place where the person who committed suicide can see and reach it. There are private clinics that perform euthanasia in Switzerland. In order to avoid the sanctions stipulated by Articles 114 and 115 of the Swiss Penal Code, the staff serving in these clinics appear as volunteers helping the patient, not paid employees, according to official records. Article 114. Killing/Killing on request "Killing upon request" A person who kills with the motive of pity upon the insistent request of the person is punished with imprisonment up to three years or a fine. (To examine the original text, see Art. 114 1. Tötung. / Tötung auf Verlangen Tötung auf Verlangen Wer aus achtenswerten Beweggründen, namentlich aus Mitleid, einen Menschen auf dessen ernsthaftes ernsthaftes und einsthaftes und eindstratlithedhrente Gellangen o f fredhthafes und eindstratlithedhrente fredredheid bestraft. Fassung gemäss Ziff. I des BG vom 23. Juni 1989, in Kraft seit 1. Jan. 1990 (AS 1989 2449; BBl 1985 II 1009) Ausdruck gemäss Ziff. II 1 Abs. 2 des BG vom 13. Dez. 2002, in Kraft seit 1. Jan. 2007 (AS 2006 3459; BBl 1999 1979). Diese Änd. wurde im ganzen zweiten Buch berücksichtigt).

As a result, in Switzerland, drugs that will cause death can be prescribed in order for the patient to commit suicide in accordance with the conditions stipulated by the relevant legal articles. (See Art. 115 1. Tötung. / Verleitung und Beihilfe zum Selbstmord Verleitung und Beihilfe zum Selbstmord Wer aus selbstsüchtigen Beweggründen jemanden zum Selbstmorde verleitet oder ihm dazu Hilfe leisten writsthüchrd fürdsutsürd, für aus selbstsüchtigen Beweggrün jemanden zum Selbstmorde verleitet oder ihm dazu Jahren oder Geldstrafe bestraft.

Ausdruck gemäss Ziff. II 1 Abs. 3 des BG vom 13. Dez. 2002, in Kraft seit 1. Jan. 2007 (AS 2006 3459; BBL 1999 1979). Diese Änd. wurde im ganzen zweiten Buch berücksichtigt ).

Germany, Article 217. 1) A person who knowingly helps another person to die is punished with imprisonment up to three years or a fine. 2) If the person does not realize that helping someone else will result in death, he will not face criminal sanctions.

([https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger\\_BGBI&start=//%5B@attr\\_id=%25%27bg.\(bl115s2177.pdf%2527%5D#\\_\\_bgbl\\_\\_%2F%2F\\*\)5%B%40attr\\_id%3D%27bgbl115s2177.pdf%275%D\\_1598204502894](https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBI&start=//%5B@attr_id=%25%27bg.(bl115s2177.pdf%2527%5D#__bgbl__%2F%2F*)5%B%40attr_id%3D%27bgbl115s2177.pdf%275%D_1598204502894). Access:23/ 07/ 2020).

The decision of the German Constitutional Court regarding 217 articles is as follows. Decision of the German Constitutional Court on euthanasia of 26 February 2020, 1. The general right to personality, the right to self-determination as an expression of personal autonomy, includes the right to die. The general right to personality also guarantees the right to consciously and deliberately end one's life, that is, the right to self-determination. a) In 1/1 and 2/1 of the Constitution, the regulation on Fundamental Personal Rights grants the person the right to freely determine his/her life, as well as the right to end his/her life freely. b) The person has complete independence in determining the quality of life and making sense of his existence. This independence can manifest in the form of ending his life.

The state and society do not have a right to a person's life and death, but must respect this decision as a right to self-determination. c) The freedom to end one's life also includes the freedom to seek help from third parties. One can seek such help and take advantage if such help is available.

Spain, “2021 Ley Orgánica 3/2021, de 24 de marzo, de regulación de la eutanasia” 2021 (Law of 24 March 2021 regulating euthanasia) The euthanasia law, enacted by the Spanish Parliament on 18 March 2021, was approved on 24 March and enters into force three months later. It was published in the Official Gazette on March 25, 2021. In the justification of the law, it is stated that a balance should be established between the right to life, the inviolability of the physical integrity and the moral integrity of the person, and the right to freedom, autonomy and self-determination. It is stated that the person should not live no matter what, but that he should live with dignity. (<https://www.bundesverfassungsgericht.de/SharedDocs/Perssemittelungen/DE/2020/bvg20-012.html>. Accessed. 24/7/2020).

In 2016, with the approval of the Canadian Parliament, the “Medical Assistance In Dying” law entered into force. The law grants the autonomy of patients, whose permanent and unbearable pain cannot be relieved, and whose illness has been proven to be medically incurable, to seek medical help to end their unbearable situation. The legal requirements for the person nearing death to receive medical assistance are as follows; 2.4.1.2. According to the article, the patient can get medical help if he/she meets all of the following criteria. <https://parl.ca/DocumentViewer/en/42-1/bill/C-14/royal-assent-Access.05/07/2021>).

Luxembourg, “Loi du sur l'euthanasie et l'assistance au suicide”2009 (Euthanasia and Assisted Suicide Act) was adopted in Luxembourg in 2009. <https://www.legislation.govt.nz/act/public/2019/0067/latest/DLM7285958.html>.(Access:18/05/2021)

Australia, “Voluntary Assisted Dying act” 2019 (Voluntary Assisted Dying Act) The Australian Ministry of Health has stated that it has started a project to evaluate the results of the death request from the patient in accordance with the law, and that it is important to make sure that the process is safe and legal. The 18-month period until July 2021 has been decided as a preparatory period for the implementation of the law. (<https://ww2.health.wa.gov.au/voluntaryassisteddying> Access: 20/06/2020).

Austria, article of the Austrian Penal Code. 77, 78, 110/1 and 2 also prohibited euthanasia. However, if the patient refuses the treatment, it is legally forbidden to do the treatment against his will. (<https://www.oesterreich.gv.at/> Accessed. 26/ 07/2020).

In my opinion, euthanasia in general is not the medical support that every patient requests. It is a method that is allowed to be applied medically when necessary. After examining the practices and experiences of the countries that allow euthanasia, the process of making legal arrangements can be carried out in our country.

It cannot be ignored that euthanasia is a phenomenon open to abuse. In order for euthanasia to be implemented, it is necessary to take some medical, legal and administrative measures.

## **CONCLUSION AND RECOMMENDATIONS**

The condition to be sought in passive and active euthanasia is whether the patient makes a request with his/her free will. The targeted outcome in active and passive euthanasia is the same in terms of the perpetrator. It is known that the operation will end the life of the patient. However, in order for the process to be carried out, euthanasia must be legally accepted.

It would be appropriate to consider the right to the protection of life together with the right to live without suffering.

The prohibition of euthanasia (art. 13), regulated in the Patient Rights Regulation, would be appropriate to be rearranged in a way that would meet the need at the legislative level, not a regulation, taking into account the legislator.

There is always a risk of abuse of euthanasia for the patient. If euthanasia is recognized in the Turkish legal system, it is possible to establish supervisory boards and prevent abuse of the practice. It will be appropriate for the patient's right to ensure that the limits of care and treatment are determined in the healthy days of the person, and the right to leave patient instructions.

After the legal arrangement regarding the patient's instructions, the physician should try to reach the patient's instructions before giving medical intervention to the patient, and if there is no instruction, she should perform the intervention in accordance with her hypothetical will.

Because, within the scope of "medical intervention", the body integrity of the patient is touched without the consent of the patient. As a rule, any intervention to the body integrity of the person is against the law. National and international legal regulations have considered it unlawful to touch a person's bodily integrity, except in exceptional circumstances. Convention for the Protection of Human Rights and Human Dignity in terms of the Application of Biology and Medicine, the Universal Declaration of Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms, and Article 17 of the Constitution are some of them.

The problem of euthanasia in our country can be resolved within the framework of social consensus by evaluating it in terms of different legal regulations and different belief systems.

In the countries where euthanasia is practiced, legal and ethical problems have been identified and legal solutions have been resolved under which conditions and by whom the application will be made. Our country can also follow such a process.

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