



The regulation of Euthanasia in Spain

Jesús María Fernández Díaz

Leuven, June 7th. 2022

Organic Law 3/21, from march 24, on Regulation of Euthanasia

- Art 1. The law establishes the right to request and receive the necessary support to die, regulates the process and establishes the guarantees that need to be observed.

The Euthanasic context. Art. 3.

- **Severe, chronic and impeding suffering:** Limitations that affect severely the physical autonomy and activities of daily life, as well as the person's capacity for expression and relationship, causing by their very nature constant and intolerable physical or mental suffering, with no possibility of relief that the patient considers tolerable, without there being any well-founded possibility of cure and, on the other hand, there is certainty or great probability that such disability will persist for the rest of the person's life. Sometimes it can mean absolute dependence on technological support.
- **Serious and incurable disease:** one that by its nature causes physical or mental suffering, constant and unbearable, without the possibility of relief that the patient considers tolerable, with a limited prognosis of life, in a context of progressive fragility.

The right and requirements Art 4.

- The law recognizes the right of every person to solicit and receive the aid to die
- An autonomous decision of an individual (based on the informed knowledge of his/her medical situation and expectation), which must be individual, mature and genuine, without intrusion or undue influence.
- People with disabilities bear the same right to request euthanasia with the special support according to his/her specific conditions.

Due process (1)

- Personal, immediate or prior, motivated, in writing (or by any other means which can be registered), autonomous and free of any influence; request must be confirmed a second time after 15 days (15 + 15 days), with possibility of limiting second period in the event of imminent death or loss of decision power. Freely revocable at any time.
- **Spanish nationality or legal residency in Spain or administratively registered for at least 12 months,**
- Civil majority of age and fully capable (by medical judgment)
- Informed decision after a deliberative process, information must be provided to person about medical process, therapeutic or alleviation alternatives, including access to social services and palliative care.
- Responsible doctor to judge the appropriateness of the request and follow up the entire process. Decision must be corroborated by a consultant doctor in (<10 days) and communicated to relatives and the healthcare team.

Due process (2)

- After a third confirmation by the person, the responsible doctor must seek validation by a Regional Commission of Guarantees and Evaluation. At least one doctor and one jurist must agree within a maximum period of 7 days. If denied, there is a second opinion by the plenary of the Commission (<2 days);
- The Commission also reviews refusals by responsible or consultant doctors.
- In case of refusal by the Commission the request can be claimed before the Court.
- Communication to the prosecutor if 2/3 of the Commission assess indications of non-compliance.
- Ex-post communication to the Regional Commission of Guarantees and Evaluation and Annual Evaluation Report
- Respect to privacy and confidentiality along the entire process.

Euthanasia practice

- Euthanasia can be practiced by direct administration of medical team or self-administered, according to person's decision.
- Medical accompaniment must be provided in every case until death.
- **Euthanasia procedure is included as a publicly financed service.**
- **Prohibition of commercial benefit by practicing euthanasia.**
- Manual of good euthanasia practices to be issued by Spanish NHS Council.
- Regulation of conscientious objection; with an official registration of objectors and obligation of the institutions to seek alternatives
- Death by euthanasia is declared legally equivalent to natural death (for life insurance purposes).
- Modification of Spanish Penal Law to decriminalize cooperation with euthanasia under the new law.

One year of implementation

- The two right wing parties have presented appeals before the Constitutional Court (sept 21)
- Meanwhile the CC has decided not to suspend the application of the Law
- Still awaiting the first year Annual Memorandum. Informal data estimate 100 cases having been performed in the first six months in Spain.
- Meanwhile the law seems to be being implemented without major difficulties and significant “silent” social (and medical) support
- **No cross-border issues**



Death is life lived.
Life is a death that comes.
Jorge Luis Borges

La muerte es una vida vivida. La vida es una muerte que viene.

Jorge Luis Borges

jesusmaria.fernandez.diaz@gmail.com

PROCEDIMIENTO SOLICITUD EUTANASIA

versión 02.06.2021

- Solicitante
- Médico/a Responsable (MR)
- Médico/a Consultor/a (MC)
- Comisión de Garantía y Evaluación

