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Tel. 080 52 22 241 ■ Fax 080 52 25 532
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SOMMARIO

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Sorin Grigore Vulcănescu*

The Legal States of Euthanasia and Its Surrogates around the World

In ancient thinking and in modern thinking, the word 'to kill' has the same meaning!
Pope Francis

Introduction

Over the past few decades, euthanasia and physician-assisted suicide (PAS) were two of the most intensely debated topics concerning bioethics. The term *euthanasia* derives from the Ancient Greek word εὐθανασία, that literally translates into English as *good death*, *easy death*. This term acquired a special meaning in contemporary society. This practice *metamorphosed* from dying peacefully, meaning that the person dying was at peace with oneself and with the divinity, into accelerating death as a means of *therapeutic remedy*.

Euthanasia is, with small differences, defined as the medical procedure by means of which a physician intentionally ends the life of another person suffering from an incurable disease, in terminal phase, by directly administering a lethal agent, while respecting this person's explicit, voluntary and informed request, in order to free him/her from a state of physical or mental degradation considered to be unbearable. Euthanasia can be: *voluntary* (with patient consent), *non-voluntary* (when the patient's will is not known) and *involuntary* (against the patient's will). PAS consists in the help that a qualified person (it does not necessarily have to be a physician) offers to a terminally ill patient suffering from an incurable disease to commit suicide, which also implies the delivering of the means to achieve this purpose. The definitions for these two practices have been legislated in several countries around the world, but they have become unfit for the current Zeitgeist, since people that did not suffer from incurable diseases were euthanized or assisted to commit suicide.

By allowing euthanasia and PAS to be enacted in certain countries, a particular type of death has been legislated in contemporary society

* Dottorando presso la Facoltà Teologica Ortodossa - Università di Bucarest (vulcanescu_sorin@ymail.com).

that seems to create a new view of suicide, seen as a *medical treatment* divested of its tragic dimensions. It is a *paradoxical death*,[1] if we think about our natural instinct for preserving life and about the thousands of people dying without their will in so many countries of the world. Since life seems of no value and disposable in today's society – and we are not talking only about human life, but about life as such, because human life is interweaved with all forms of life – we are wondering whether we can still defend the thesis about *life cultivation* – that Christianity has tried to ennoble since its dawning into the world – against the religious-moral indifferentism.

In Western countries, accepting and supporting euthanasia and PAS are two positions that are gaining more and more ground, according to bioethicists, who base their statements on statistical data and annual reports.[2] *The right to die* movement has gained a lot of momentum around the world in a time of anxiety caused by an ageing population, with the number of people over 65 years old continuing to rise in the United States, Canada and a large part of Europe. There are a vast number of ethicists that ascribe these changes in mentality to the modernization and post-modernization of societies, characterized by the advancement of values such as autonomy and individual choice (Inghlehart, Baker and Welzel),[3] as well as by a decline in religiosity everywhere around the world (Hayward and Krausse).[4] Therefore, all these factors led to replacing moral attitudes based on traditional beliefs with secular individualism and admitting euthanasia.[5] Moreover, the approach towards death has also changed, since there are «more and more people who wish to exercise control over how, when and where to die».[6]

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[1] V. SRIVASTAVA, «Euthanasia: a regional perspective», in *Annals of Neurosciences* 21(2014)3, 81.

[2] T.K. BURKI, «Attitudes and practices towards legal euthanasia», in *The Lancet Oncology* 17(2016)8, 325; J. COHEN – P. VAN LANDEGHEM – N. CARPENTIER *et al.*, «Public acceptance of euthanasia in Europe: a survey study in 47 countries», in *International Journal of Public Health* 59(2014), 143-156.

[3] R. INGLEHART – W. BAKER, «Modernization, Cultural Change, and Persistence of Traditional Values», in *American Sociological Review* 65(2000), 19-51; C. WELZEL, *Freedom rising*, Cambridge University Press, Cambridge 2013.

[4] R.D. HAYWARD – N. KRAUSE, «Aging, Social Developmental, and Cultural Factors in Changing Patterns of Religious Involvement Over a 32-Year Period An Age–Period–Cohort Analysis of 80 Countries», in *Journal of Cross-Cultural Psychology* 46(2015)8, 979-995.

[5] M. RUDNEV – A. SAVELKAEVA, «Public Support for the Right to Euthanasia: the Competing Roles of Values and Religiosity Across 35 Nations», in https://www.hse.ru/data/2016/04/07/1127165123/59PSY2016.pdf (Accessed: 02 February 2017).

[6] M. KELNER – I. BOURGEAULT, «Patient control over dying: responses of health care professionals», in *Social Sciences & Medicine* 36(1993)6, 757-775; T. SCHROEPFER – H.

1. America

1.1. The United States

In 1997, the *Oregon Death with Dignity Act*, 'a pioneering law' for the other states, legalized PAS, but not euthanasia, in the American state of Oregon. Following the same legislative process, Washington (2008), Montana (2009), Vermont (2013), California (2015), Colorado (2016), all legalized PAS, while it is still being under debate in several American states.

a) In *Oregon*, the law allows patients who suffer from an incurable disease to request lethal medication. The provisions of the Oregon act are well known, since the controversies surrounding it are notorious, thus making this act that passed on American soil a model of inspiration for the neighboring states, as well as for the European ones. In Oregon, unbearable suffering is not a prerequisite for PAS, and that is why the critics of this law have expressed their concern and asked for more safety measures to be adopted. Another cause for concern is related to the difficulty in detecting and diagnosing depression in patients with advanced cancer. Between 15% and 50% of patients show depressive symptoms, but only between 5% and 20% of them are diagnosed.[7] What we know about the connection between depression and the wish to hasten death is that it causes «variability, inconsequence and instability in the wish to die».[8] Since 1997, when the law was adopted, a total number of 1545 patients have received medical prescription and 991[9] of them have died. The PAS process starts with the patient ingesting the lethal agent. After taking the lithic substances, secobarbital and pentobarbital, the patients become unconscious after only a few minutes and die, generally, after 15-20 minutes. From the cases referred to in 2015, the complications were attributed to: incomplete substance consumption, medical tolerance or vomiting. These kind of complications happened in the case of 24 of the patients, with 6 of them regaining consciousness after ingesting the substances, which led to a minimum level of awareness, followed by

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Noh – M. Kavanaugh, «The myriad strategies for seeking control in the dying process», in *Gerontologist* 49(2009)6, 755-766.

[7] D.L. Rosenstein, «Depression and end-of-life care for patients with cancer», in *Dialogues in Clinical Neuroscience* 13(2011)1, 101.

[8] E. Emanuel – D. Fairclough, «Attitudes and desires related to euthanasia and physician-assisted suicide among terminally ill patients and their caregivers», in *The Journal of the American Medical Association* (2000)284, 2460-2468.

[9] Oregon Public Health Division, *Oregon Death with Wignity Act: 2015 Data Summary*, in http://www.oregon.gov/oha/ph/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Documents/year18.pdf (Accessed: 04 March 2017).

death taking place after a few days, and with one person waking up 3 days after ingestion and getting to live for another 3 months.[10]

b) *Washington* has become the second state, after Oregon, to legalize PAS in 2008, by adopting the *Washington Die With Dignity* (WDWD) act. The Washington act is similar to the one in Oregon. Here too we can notice an increasing tendency in people requesting and receiving medical assistance to suicide, so that, in the first year, 2009, there were 64 deaths registered, and in 2015, 202 deaths.[11]

c) In *Montana* there is no law that recognizes PAS, but the option of assisted suicide is legal in this state through a decision of the State Supreme Court. In December 2009, the Montana State Supreme Court ruled in the *Baxter v. Montana* case that there is no legal provision that prohibits a physician from honoring the request of a terminally ill, but mentally competent patient to be prescribed a lethal agent that can hasten his death.[12]

d) *Vermont* has joined the series of states that allowed PAS in 2013, by adopting the *End of Life Choices Act*. Just like the Oregon act, the patient must be a state resident and to suffer from an incurable disease in terminal phase, that is to have less than 6 months to live in order to be allowed to submit his request and to take the lethal agent on one's own.[13]

e) *California* legalized PAS through the *End of Life Option Act*, along the lines of Oregon, in 2015, but which subsequently came into force in June 2016. The state allows sick adults in terminal phase to request and obtain a medical prescription for purchasing the lethal substances. The patient can require medical assistance for suicide only if he has only 6 months or less left to live.[14] This law remains in force for 10 years, unless the legislators will want to renew it.

f) *Colorado* is the last American state to legalize PAS. On November 8th 2016, the Colorado voters decided with a majority of 65% to

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[10] L. GANZINI, «Legalized Physician Assisted Death in Oregon-Eighteen Years' Experience», in *Assistierter Suizid: Der Stand der Wissenschaft* 46(2017), 9.

[11] WASHINGTON STATE DEPARTEMENT OF HEALTH, *2015 Death with Dignity Act Report*, in http://www.doh.wa. gov/portals/1/Documents/Pubs/422-109-DeathWithDignityAct2015.pdf (Accessed: 04 February 2017).

[12] SUPREME COURT OF THE STATE OF MONTANA, *Robert Baxter v State*, in http://law.justia.com/cases/montana/supreme-court/2009/50c59956-3100-468d-b397-4ab38f6eda4d.html (Accessed: 04 February 2017).

[13] THE VERMONT STATUTES ONLINE, *Patient Choice at End of Life*, in http://legislature.vermont.gov/statutes/fullchapter/18/113 (Accessed: 04 February 2017).

[14] DEATH WITH DIGNITY NATIONAL CENTER, *Full Text of AB-15, California End of Life Option Act*, in http://californiadeathwithdignity.org/resources/california-eol-act/ (Accessed: 04 February 2017).

pass the *Colorado End-of-Life Options Act*. This law followed the Oregon example and came into force on December 16th 2016. For the time being, we do not have any statistic data regarding the number of patients that chose this method of ending their life, for the following states: Montana, Vermont, California and Colorado.

1.2. Canada

Canada's resistance to the idea of caused death crumbled at an unprecedented speed. In less than two years, Canada changed from the nation where assisted suicide was considered a federal crime to the nation that has adopted one of the most radical systems in the world that legalize caused death. In 2014, the National Assembly of Quebec, known as the most liberal among the Canadian provinces, passed the *Bill 52*, an act that gives the right to receive *end-of-life care*. The novelty of this fast paradigm shift has become second to the one about redefining the usual medical meaning of *receiving end-of-life care.* Normally, this process included the hospice and palliative care provided to a terminally ill patient by qualified staff. After this law had passed, these services came to define the act of administering a lethal injection or substances that expedite death. Offering medical care becomes a contradictory practice since it helps to accelerates death, an act viewed as *support*. Since December 2015, the Quebec law has produced its effects. After only a year, the mortality rate was three times higher than the Government had predicted. Alex Shadenberg, executive director for *Euthanasia Prevention Coalition*, declared that euthanasia related deaths are underreported, even though, in Quebec, reporting and monitoring requirements are among the strictest ones.[15] The Government of Quebec has recently issued a report where there were 262 deaths registered in the first seven months since legalizing this practice.[16] There are also 3 cases mentioned where the law was not observed, without any other information regarding the consequences of these transgressions. This made an enraged Aubert Martin, the executive director of the anti-euthanasia organization *Living with Dignity*, state: «We are talking about killing a human being. This is a criminal issue».[17]

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[15] Cns, «Assisted Suicide Count In Canada Challenged», in *America. The National Catholic Review* 17(2016)215, 11.

[16] I. Peritz, «Quebec's assisted-death requests to top 300 by 20», in *The Globe and Mail*, in http://www. theglobeandmail.com/news/national/quebecs-assisted-death-requests-to-top-300---three-times-governments-forecast /article32561209/ (Accessed: 04 February 2017).

[17] Cns, «Assisted Suicide Count In Canada Challenged», 11.

Euthanasia and assisted suicide became legal across Canada on June 17th 2016. The bill known as *C-14* allowing medical assistance in dying (MAID) for adults patients assessed to be intolerably suffering from a grievous and irremediable medical condition, facing reasonably foreseeable natural death.[18] According to the latest report from Health Canada, there were 1,982 medically assisted deaths in the first year after it became legal (803 assisted deaths in the first six months and 1,179 in the following six months).[19] The most common underlying medical condition was cancer and other common reasons were neuro-degenerative disorders and circulatory or respiratory system failures.[20] An independent report on the status of *mature minors*, with focus on their potential eligibility for MAID, was required by the 2016 Act and is expected to be presented to Parliament by December 2018.[21]

1.3. Colombia

Euthanasia has been practiced by some physicians in Colombia without legal regulations for over 15 years, after the Supreme Court decided that this procedure could not be considered a crime under certain circumstances. The Colombian courts have ruled, in two different cases, in favor of patients who requested the right to euthanasia.[22] In July 2015, the Congress of the Republic of Colombia presented the draft law that regulates the practices of euthanasia and assisted suicide. This draft defines the necessary procedures for practicing euthanasia/PAS and establishes the monitoring and assessment mechanisms for correctly implementing the two practices, according to the guideline for applying the euthanasia procedure proposed by the Ministry of Health. In July 2015, 79-year-old Colombian Ovidio Gonzalez's request for euthanasia was approved. The Colombian suffered from terminal stage cancer. The first person to be legally euthanized in Colombia died in a clinic in the town of Pereira.[23]

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[18] STATUTES OF CANADA, *BILL C-14*, in http://laws-lois.justice.gc.ca/PDF/2016_3.pdf (Accessed: 10 April 2018).

[19] HEALTH CANADA, *Interim Report on Medical Assistance in Dying in Canada*, Ottawa 2017, 5.

[20] *Ib.*, 6.

[21] D. DAVIES, *Medical Assistance in Dying: A Paediatric Perspective*, in https://www.cps.ca/en/documents/position/medical-assistance-in-dying (Accessed: 10 April 2018).

[22] *Case Carlos Gaviria*, in http://www.corteconstitucional.gov.co/relatoria/1997/c-239-97.htm; *Case Luis Ernesto Vargas*, in http://www.corteconstitucional.gov.co/relatoria/2014/t-970-14.htm (Accessed: 07 November 2017).

[23] *Cancer patient becomes Colombia's first legal euthanasia case*, in http://www.bbc.com/news/world-latin-america-33392195 (Accessed: 06 July 2017).

2. Europe

A recent study regarding the approval rate of euthanasia in Europe showed a growing tendency and a wide leniency, but, at the same time, also an East-West polarization.[24] Researchers in this field believe that: «Eventually all civilised countries will legalise euthanasia and assisted suicide – it is really just a matter of time», says Julian Săvulescu, an Oxford professor, because the concerns regarding the fact that people feel the pressure to commit suicide were not substantiated by the Dutch and Belgian experience, and «People want to have control over their death, and there is no reason for the state to intervene in the liberty of one individual to access assisted suicide or euthanasia when another individual is prepared to provide it», adds the professor.[25]

2.1. The Netherlands

In 2002, the Netherlands was the first country in the world to legalize both euthanasia and PAS. A long process of deliberation and tolerance preceded legalizing these two practices. In the mid 80's, the Royal Dutch Medical Association and the Attorney General came to an agreement regarding euthanasia. If a series of strict conditions were met, the physician conducting the process of euthanasia could not be put under investigation and, consequently, convicted. The death resulted from euthanasia is considered *non-natural*, while in Belgium it is considered and classified as a *natural* death. Since the institutionalization of euthanasia in the Netherlands, the majority of euthanasia cases have been performed for people that suffered from terminal stage cancer, a few days or a few months before the occurrence of natural death; these cases were known under the term *traditional cases of euthanasia*. Lately, a new category of requesters has emerged, not of terminally ill patients, as has been the case up until now. A 92-year-old woman confesses: «I've wanted to die for years. Why must I have a serious disease before I may ask to be euthanized?».[26] The physician that analyzed her case noted that her health was within normal parameters, considering her old age, but that his patient refused any kind of medical care or suggestion. Another case regards a bored 70-year-old man whose only concern

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[24] Cohen – Van Landeghem – Carpentier *et al.*, «Public acceptance of euthanasia in Europe: a survey study in 47 countries», 143-156.

[25] T.K. Burki, «Trends in euthanasia and assisted suicide», in *The Lancet Oncology* (2015), 433.

[26] T.A. Boer, «Euthanasia, Ethics and Theology: A Dutch Perspective», in *Ecumenical Review Sibiu/Revista Ecumenica Sibiu* 6(2014)2, 205.

were parking spots or a lady that sat staring at the window all day long and scared crows away with a cane.[27] Thus, we can notice examples of new patients enlisting for euthanasia for reasons related to age, chronic diseases, loss of social status or out of loneliness. For this new category of patients that have not received approval from the authorities, but that, nonetheless, meet certain requirements, the organization Right to Die NL has founded, in 2012, the End-of-Life Clinic, where a lot of patients, whose requests are denied by the initial committees and who suffer from psychiatric or psychological disorders, such as dementia or exhaustion, are accepted.[28]

2.2. Belgium

On January 20th 2001, a committee formed of representatives of the Belgian Senate voted in favor of the law regarding euthanasia. According to this law, both this practice and the medical staff that performed it could not be prosecuted as long as the legal requirements were met. On May 16th 2002, after two days of harsh debate, the lower house of the Belgian Parliament passed the draft law with 86 votes in favor, 51 against and 10 abstentions.[29] After euthanasia has taken place, the resulting death can be classified as being a *natural death*, according to article 15 in the *Euthanasia Law*, which eliminates the legal duty to inform the prosecutor or the coroner. This legal duty consists in writing the patient's death certificate, sending a report to the Federal Monitoring and Evaluation Committee in up to 4 days, and then this authority has to determine whether the procedure was carried out correctly or not. But a series of suspicions regarding the objectivity and independence of its members was hanging over this type of committee. In 2014, a Belgian citizen filed a complaint with the European Court of Human Rights, after his mother was diagnosed with psychological stress and, subsequently, euthanized without informing the family. In his complaint, he claimed that the law in Belgium did not offer any warranties against abuse, after the *British Medical Journal* had published a study where it was stated that only half of the euthanasia cases from the Flemish

[27] *Ib*.

[28] A study was conducted regarding the activity of this clinic in its first year, from March 2012 to March 2013; the authors analyzed the registration charts of 645 patients who submitted a request for euthanasia or PAS to this clinic (M.C. SNIJDEWIND *et al.*, «A Study of the First Year of the End-of-Life Clinic for Physician-Assisted Dying in the Netherlands», in *JAMA Internal Medicine* [2015]175, 1633-1640).

[29] J. GRIFFITHS – H. WEYERS – M. ADAMS, *Euthanasia and Law in Europe*, Hart, Oxford 2008, 309.

Region were reported to this Federal Evaluation Committee, since almost half of its 16 members were affiliated to the *right-to-die* associations.[30] While being the second country in Europe to legalize euthanasia, Belgium has become the indisputable leader of leniency regarding the acceptance requirements for intentional death. A series of amendments on the initial euthanasia law has transformed Belgium in the most open-minded country for what euthanasia and *its surrogates* are concerned, by accepting, one at a time, the euthanasia of people who are not suffering from an incurable disease and of minors. This regulatory leniency has *evolved* towards transplanting organs from euthanized patients, but also towards an absolute novelty, even for the states that allow euthanasia: combining palliative care services with euthanasia, a paradox of paring life care with the direct intervention against it, thus, accelerating death.

2.3. Luxembourg

In 2009, the Grand Duchy of Luxembourg has adopted the law regarding euthanasia, PAS and palliative care, becoming the third European state to legalize the two practices, after the Netherlands and Belgium. The law is based mainly on the Belgian experience. This law stipulates that the physicians who perform euthanasia or PAS will not be faced with legal sanctions or civil suits as long as they confer with a colleague first, in order to certify that the patient suffers from a severe, incurable disease.[31] Even though the law was voted only by a few members of the small Luxembourgian Parliament, the people's endorsement was of over 70%, despite the firm opposition of the Roman-Catholic Church that, by means of a powerful campaign against this law, succeeded in provoking one of the biggest debates in the history of the Grand Duchy. The euthanasia law has even led to changing the Constitution after the Grand Duke, Henri, refused to sign the act, thus forcing the Parliament to vote an amendment to the Constitution in order to reduce the monarch's power mostly to a ceremonial role.

2.4. Switzerland

In Switzerland, assisted suicide does not have a special legal status. Offering assistance to suicide is tolerated and considered legal

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[30] R. Aviv, «The death treatment», in *The New Yorker* 91(2015)17, 56.

[31] Le Gouvernement du Grand-Duché de Luxembourg, *Loi du 16 mars 2009 sur l'euthanasie et l'assistance au suicide*, in http://legilux.public.lu/eli/etat/leg/loi/2009/03/16/n2/jo (Accessed: 27 January 2017).

only if there aren't any *private interests* being pursued, according to Art. 115 from the Criminal Code, that dates, in its current form, from 1942.[32] Contrary to other legislations, the requirement for a preexisting terminal disease is not mentioned in Art. 115, and neither are other medical requirements. However, a person's right to request assistance to commit suicide was acknowledged by the Swiss Federal Supreme Court. Nonetheless, contrary to the situation in the Netherlands, Belgium or Luxembourg, states that allow both euthanasia and PAS, the Swiss law does not authorize physicians to perform assisted suicide.[33] Switzerland is the only country in the world where the alternative practice to PAS, assisted suicide (AS), is performed. This process allows for the possibility that a non-resident patient obtain a lethal substance, barbiturates (sodium pentobarbital), within the *right-to-die* organizations. This led also to the creation of the term *death tourism,* with the most well-known organization that offers this service being Dignitas. The online news outlet the *Mirror* has reported that «Healthy people are travelling abroad for assisted suicide simply *weary of life*, research has revealed. […]. Around 16 per cent of the people who use *right-to-die* organisations such as Dignitas have no underlying health problems listed on their death certificates. […] And women, highly educated, divorced and rich people are more likely to die from assisted suicide, the new report by researchers in Switzerland claims».[34] Members must repeatedly request assistance to commit suicide because of an unbearable sufferance; then, the person is examined by a physician who decides whether the patient has the ability to decide for him/herself and if he/she can be prescribed with barbiturates. In case of approval, a volunteer within the organizations goes and purchases the barbiturates from the pharmacy and then he deposits them at the clinic until they are used. On the day decided for the suicide, a volunteer will reevaluate the member's ability to take decisions, and if he determines that the patient reaffirms his wish to die, the volunteer will mix the substances in drinks or food and he will then hand them over to the patient. If the patient is unable to swallow, a feeding tube will be inserted into his stomach through the abdominal wall or intra-

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[32] *Swiss Criminal Code*, in https://www.admin.ch/opc/en/classified-compilation/19370083/201701010000/311. 0.pdf (Accessed: 24 January 2017).

[33] G. BOSSHARD, «Switzerland», in *Euthanasia and Law in Europe*, eds. J. GRIFFITHS – H. WEYERS, Hart Publishing, Oxford 2008, 463-481.

[34] The description provided for the process of AS within the Exit clinic is taken from the following sources: S.J. ZIEGLER – G. BOSSHARD, «Role of non-governmental organizations in physician assisted suicide», in *The British Medical Journal* (2007)7588, 295-298; S. FISCHER – C.A. HUBER – L. IMHOF *et al.*, «Suicide assisted by two Swiss right-to-die organisations», in *Journal Medical Ethics* 34(2008), 810-814 and www.exit.ch.

venously, so as for him to be able to administer the lethal substances by him/herself.[35] In the presence of friends and family, the patient will self-administer the lethal substance and then he/she will say goodbye to his/her loved ones and fall into a deep sleep; death will take place in a very short time as the result of a cardiac arrest. After the patient is dead, the Swiss police is notified, which, together with a coroner and a district attorney, assess the legality of the file and of the procedure.

2.5. Germany

At the moment, euthanasia is to a certain extent accepted in Germany on the strength of a bill passed by the German Parliament on November 6th 2015. This bill bans however any form of PAS carried out by commercial groups on a *business* basis,[36] allowing it if is performed for *altruistic* reasons.[37] Noteworthy in the German case is the fact that this law was not promulgated, as in other states, under the pressure of the legislative bodies. Out of four different draft acts was considered the moderate proposal submitted by two Parliement members, Michael Brand (CDU) and Kerstin Griese (SPD), who came up with a middle ground solution between invariably punishing those who offer assistance in commiting suicide and a total liberalization of such an undertaking, as Kerstin Griese stated. In this sense, on the eve of the debate regarding this draft, the Roman Catholic Church and the German Evangelical Church (EKD) issued a common statement where they asked politicians to reject any proposal for the liberalization of this practice which poses a significant threat to the dignity of human life and which will officially open the door to day to day suicide, to social pressure for older or severely ill people. The law prohibits and punishes any attempt to commercialize assisted suicide services. Any kind of material benefits and *death tourism*, as in the Swiss case, shall be punished by imprisonment of up to three years. The patient's relatives and close friends,

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[35] Ziegler – Bosshard, «Role of non-governmental organizations in physician assisted suicide», 295-298.

[36] T. Weigend – E. Hoven, «§ 217 StGB – Bemerkungen zur Auslegung eines zweifelhaften Tatbestandes», in *Zeitschrift für Internationale Strafrechtsdogmatik* 10(2016), 681-691.

[37] Deutscher Bundestag, *Geschäftsmäßige Hilfe zum Suizid wird bestraft*, in https://www.bundestag.de/ dokumente/textarchiv/2015/kw45_de_sterbebegleitung /392450 (Accessed: 18 October 2016); Strafgesetzbuch, *Geschäftsmäßige Förderung der Selbsttötung*, in https://dejure.org/gesetze/StGB/217.html (Accessed: 18 October 2016); Deutscher Bundestag, *Drucksache 18/537. Entwurf eines Gesetzes zur Strafbarkeit der geschäftsmäßigen Förderung der Selbsttötung*, in http://dip21.bundestag.de/dip21/btd/18/053/1805373.pdf (Accessed: 12 April 2018).

as well as the physicians that act out of altruism in individual cases of assistance to the persons who wish to hasten their own death will not face prosecution. The priest Hans Feichtinger, a German citizen settled in Canada, considers that the German law differs from the other pro-euthanasia laws in the fact that it consists of a series of efforts to limit assisted suicide by eliminating financial incentives that could encourage someone to invest in this kind of clinics. Another difference is given by the fact that this law does not grant the concerned person any right, like in the Canadian case, for example, but it just takes the action out of the scope of criminal prosecution, so as for him/her not to be criminally liable. The German priest asks himself whether these differences can transform the German case into a special one or, at least, a preferable one, compared to the others, given its endeavor to limit the occurrences of assisted suicide, or just into a hypocrisy, by assuming that assisted suicide is not a *right*, but a case of deciding whether or not to prosecute. The question is a rhetorical one, given the state of affairs. The real difficulty consists in trying to find a solution for supporting and promoting the sanctity of life in a *post-Christian West*.[38]

Conclusions

The increasing tendency of legalizing euthanasia has become a certainty. This practice is spreading rapidly worldwide in the form of debates, of draft laws and of important topic on political agendas, resulting in its recognition either by law or by a court decision. The controversies arisen during academic debates and then, during debates on draft law, become obsolete when compared to the ones regarding the extensions and radicalizations of said law. The speed with which the euthanasia law escalades the initial criteria alters the basis for the primary discussions and limits experts' reactions.

The legal presence of euthanasia around the world is exponentially growing. This ever-increasing tendency shows us that euthanasia is evolving into the form of an adaptable practice and an example for other states. We can assert that euthanasia has started its liberalization process, a process that can no longer be prohibited, but only limited. We notice that euthanasia was legalized in states where people's adherence to the respect for autonomy principles, self-determination and personal freedoms have become a symbol for fraternizing with one another and *testimony* for the rupture from religious values, viewed as barriers in front of personal development.

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[38] H. FEICHTINGER, «Death Rights», in *First Things* (2016)267, 23.

The terminological alteration of *euthanasia* can be noticed in the *metamorphosis* of the sense and aim of the term itself, but also in the Christian vocabulary, since *mercy* or *compassion* have a new meaning now, profoundly laic, that changes the hierarchy and the sense of moral values, and that the notions of good and evil are being reinterpreted in a much more accessible profane, humanistic meaning. After ingesting the lethal substances, the death that ensues from this act appears in the new pro-euthanasia laws as a *natural death*, drastically changing the customary significance; thus, violent death, death by poisoning, is being legally formalized into a *natural death*.

Renowned bioethicists state that the concerns surrounding vulnerable people, who could feel pressured to commit suicide, are not being confirmed, if we take a look at the Dutch and Belgian experiences. However, these statements are not sustainable. There are numerous arguments against decriminalizing euthanasia, the so-called *slippery slopes*: replacing palliative care, trivializing the act of ending a life and excluding patients that are more vulnerable. Euthanizing people that suffer from depression or dementia, as well as children, are examples neither of self-determination or personal autonomy, nor of conscious control over death, and the state must interfere and prohibit their access to suicide, by offering the necessary medical support. Performing organ transplants collected from euthanized people and treating them beforehand can result in abuse and pressure for the undecided. This pressure upon vulnerable people, together with disengagement of the state, can lead to eugenic, social hygiene measures out of financial and social interests.

Nowadays, we talk about life as a random good, and once we become burdened by hardship, this good becomes a burden as well, life becomes an ordeal, and we feel compelled to remove it unconditionally. We can no longer talk about life as a gift; we can no longer talk about the sanctity or the value of this gift. No. We forget or we refuse to accept that we are not our own creators. A Christian man has the will to live, not because survival is a goal in itself, but rather because space and time allows him to live in order to serve God. However, we must always keep in mind that human life is a gift from God. Life is an inviolable gift, not only at the disposal of the concerned person, but also of the community, of the Church, of God. Life is not relevant only to him, but also to his family and to the community.

The belief that the contemporary man has in living a life of pleasures, in now and here, the inability to accept pain and the disbelief in a future life convince him that life is not worth living. Thus, man decides that, in the name of total freedom, in which he has to unconditionally fulfill all his wishes, without owing to God his own existence and providence, he is the only one responsible for his own death, after which

nothing follows. In this context, the physician who has been preparing for a long time and whose entire training is based on how to do good by people, making an oath in this sense, ends up doing the exact opposite.

Firstly, the impending death determines a natural revolt in the patient, since death is an unnatural occurrence in human existence. But then, there is the thought of becoming a burden for oneself and for one's family. Secondly, the patient's judgment is influenced by the depression that ensues in most of the cases, even though this is a very difficult thing to detect. His decision might be voluntary, but it is not authentic, fully conscious; it is the result of the pressure caused by the revolt, pessimism, despair and apathy which surrounds himself with. That is why we believe that these *slippery slopes* are not simple speculations, but certainties. That is why we believe that the good or easy death is the one taking place in palliative care centers, that it represents a biopsychosocial and spiritual alternative to relieving oneself from suffering and pain, a remedy for the body and mind.

When trying to analyze the wide diversity of opinions concerning euthanasia around Europe, in order to identify a pan-European political approach for debating this issue, it seems extremely difficult, if not even impossible, to reach a common ground, although, in my opinion, it is mandatory to do so. Until then, the state must remain the warranting and responsible entity for these lives that, in my opinion, deserve to be lived, regardless of the physical and mental sufferings that afflict everyone. And us, theologians, are forced to enquire and argue, concurrently, biblical, doctrinal, historical, philosophical, legal, and sociological aspects concerning this topic, since all the civilizations and religious systems known to us prohibit murder and suicide, by promoting the *cultivation of life* and its sanctity and not the *cultivation of death.*

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The purpose of this study is to present the current legal situation surrounding euthanasia and its surrogates, physician-assisted suicide and assisted suicide, restricting it to the states where these practices were legally recognized. The order of presentation is based on geographic criteria; thus, we will present and analyze states from the American continent: the United States, Canada, and Colombia; from Europe: the Netherlands, Belgium, Luxemburg, Switzerland and Germany. The legal presence of euthanasia around the world is growing exponentially. This ever-increasing tendency shows us that euthanasia is evolving into the form of an adaptable practice and an example for other states. We can assert that euthanasia has started its liberalization process.

Lo scopo di questo studio è di presentare l'attuale situazione legale che riguarda l'eutanasia e i suoi surrogati, il suicidio assistito dal medico e il suicidio assistito, limitandolo agli Stati in cui tali pratiche sono state legalmente riconosciute. L'ordine di presentazione è basato su criteri geografici; quindi presenteremo e analizzeremo Stati del continente americano: Stati Uniti, Canada e Colombia; dell'Europa: Paesi Bassi, Belgio, Lussemburgo, Svizzera e Germania. La presenza legale dell'eutanasia in tutto il mondo sta crescendo esponenzialmente. Questa tendenza sempre crescente ci mostra che l'eutanasia si sta evolvendo nella forma di una pratica adattabile e un esempio per altri Stati. Possiamo affermare che l'eutanasia ha iniziato il suo processo di liberalizzazione.

Eutanasia – Suicidio assistito dal medico – Suicidio assistito – Morte – Legge