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Are we heading towards the right to die, after all?

A review of the recent European legal landscape

The ongoing debate on assisted dying has become increasingly significant, highlighted recently by public figures like Dame Esther Rantzen's controversial comment on '[buzzing off to Zurich](#)' for assisted death. This discussion draws attention to the European socio-legal landscape in the attempt to find a balance to protect the vulnerable on the one hand and, on the other hand, to safeguard what many have argued to be the right to die.

Such a discussion requires first distinguishing between two terms, often misunderstood or used interchangeably, even though the two have distinct legal implications: euthanasia and assisted suicide.

In English law, euthanasia is treated as homicide, much like murder, as it involves intentional actions to end a person's life, regardless of compassionate motives. However, there are legal exceptions in cases where medical professionals withdraw treatment deemed not in the patient's best interest or when the patient refuses treatment. Assisted suicide, on the other hand, is criminalised under the Suicide Act 1961, which penalises those who help someone in taking their own life, even if the act itself is carried out by the person seeking death ([Otlowski 2000](#); [Picon-Jaimes et al., 2022](#)).

The concern of this review is on those individuals who wish to end their life but are unable to do so due to physical limitations. Currently, only clinics in Switzerland, where assisted dying is legal, are open to foreign nationals. Still, although physicians facilitate this service, it is only available if the person can physically self-administer the drug. Typically referred to as 'suicide tourism' ([Carrigan, 2023](#)), it has led to discussions in various European countries about legalising physician-assisted death within their borders.

At the time of writing, physician-assisted self-administration is possible by law in Switzerland (1942), the Netherlands (2001), Belgium (2002), Luxembourg (2009), Spain (2021) and Austria (2022). The option for the drugs to be directly

administered by a physician is only lawful in Belgium, Luxembourg, the Netherlands, and Spain (this will be classified as euthanasia). Despite these advances, the [European Court of Human Rights](#) has chosen to avoid creating a precedent, maintaining that the right to life does not imply a right to die ([Martin, 2021](#)). Nevertheless, national courts and governments across Europe have shown growing empathy towards assisted dying, although progress is uneven and sometimes superficial.

Italy's Evolving Legal Stance

In Italy, a significant legal stance was made in 2019 when the Constitutional Court [ruled](#) that the state's obligation to protect life should not override the principle of individual freedom, which lies at the heart of the Italian Constitution. The Court deemed Article 580 of the Criminal Code, which criminalised assisted suicide, unconstitutional. In 2021, after a lengthy legal battle, a Tribunal granted a man suffering from tetraplegia the right to end his life with assistance ([Cecchi et al., 2023](#)). Seizing the momentum, over a million signatures were collected, calling for a referendum to legalise assisted dying and allow doctors to administer the necessary drug to end a person's life when autonomous administration is not possible. The Constitutional Court blocked the [referendum](#), fearing the move could harm vulnerable individuals. However, public pressure led the government to propose a Bill (AA.C. 2) on medically assisted suicide, and it was forwarded to the [Senate's consideration](#). As for October 2024, the [Chamber of Deputies'](#) (the lower house of the bicameral Parliament) website reports that since September 2022, the process has come to a halt.

Spain and Austria Legalise Assisted Dying

Spain and Austria have successfully passed laws on assisted dying. In [Spain](#), the debate intensified in the early 1990s after a series of high-profile cases where individuals sought, unsuccessfully, legal permission to end their lives. This culminated in the Organic Law 3/2021, which regulated euthanasia and medically assisted suicide for individuals with severe, chronic, incurable diseases or debilitating conditions ([Ramos-Pozón et al., 2023](#)). A significant case that might have

pushed this legislation forward involved a man facing [criminal charges](#) for helping his wife, who had multiple sclerosis, end her life. The charges were dropped following the new law. The Spanish [Ministry of Health](#) has since expressed satisfaction with how the law has been implemented, highlighting the establishment of safeguards such as advance wills, the right for conscientious objection for medical professionals, and the creation of support networks for the healthcare workers involved.

Austria also made swift progress in decriminalising assisted death following a ruling by the [Supreme Constitutional Court](#) in 2019. The court held that criminalising assisted suicide violated the right to self-determination, including the right to die with dignity. The ruling led to the Federal Assisted Dying Act of 2022. Legally, the Court's judgment 'lifted the ban' on assisted suicide prescribed in the Criminal Code; this meant that if the government did not follow with a vote to legalise assisted suicide by the end of 2021, this would have become a no-offence and, therefore, unregulated. The new law specifically only allows for assisted suicide, implying that it would be only available to those who can self-administrate the drug ([Kitta, 2023](#)).

Portugal's Struggles with Legislation

Portugal's journey towards legalising assisted dying has been more challenging, influenced significantly by the Catholic Church's opposition. The debate began in the mid-1990s but only gained political traction in 2019 after a change in the composition of Parliament in favour of left-leaning and liberal members. Although Parliament approved an assisted dying law in 2021, the President referred it to the [Constitutional Court](#), which ruled it unconstitutional, not because the right to die was fundamentally wrong (which they did not think was the case), but because the proposed law was inadequately drafted ([Wereham et al. 2024](#)). Subsequent versions of the law also faced hurdles, with the President vetoing the fourth attempt in April 2023. Still, just a month later, the Parliament overturned the veto, approving the law for medically assisted death for individuals suffering extreme pain and unable to end their own lives. The law was set to be regulated by the next government after the March 2024 elections, whilst it has been facing opposition from groups like the

Chega party, vowing to repeal it. Indeed, recently, the [Ombudsman](#) asked the Constitutional Court to declare the law unconstitutional.

Germany's Journey to Legal Clarity

Germany's position on assisted dying has been more turbulent. Historically, physician-assisted suicide was legal ([Battin, 1992](#)), but in 2015, a law was passed banning '[commercial](#)' or 'business-like' assisted dying aimed at curbing for-profit assisted suicide services. However, this law invertedly restricted access to assisted dying even for individuals seeking non-commercial help, leading many to travel to Switzerland for assistance. In 2020, the Federal Constitutional Court ruled that the ban violated the right to occupational freedom and, more significantly, the right to self-determined death. The Court's ruling was groundbreaking, recognising the right to die with dignity as a fundamental right not limited to specific life stages or conditions ([Göken and F. Zwißler, 2022](#)). Despite this ruling, the lack of legislation regulating assisted suicide has led the [Federal Court](#) to refuse two seriously ill men to turn to assisted dying to end their lives.

France's Citizens Weigh In

France's debate on assisted dying took a significant turn when a [citizens' convention](#) recently voted in favour of legalising it. Although the French government initially promised to introduce a draft bill by the summer of 2023, this was delayed due to the papal visit. Despite subsequent months of delay and hesitation, the government introduced in 2024 an '[aid in dying](#)' bill. The bill allows patients who cannot inject the drug themselves to appoint a qualified third party to do so, and thus, France has joined the small pool of European countries legalising not only assisted suicide but also euthanasia.

England's Ongoing Debates

In England, assisted dying has gained significant public and media attention, particularly following high-profile cases such as those of Diane Pretty, Tony Nicklinson, and Noel Conway. There have been several attempts to introduce

legislation, such as the Assisted Dying Bill in 2013, 2015, and 2021. Meanwhile, in January 2023, the Health and Social Care Committee began an [inquiry](#), gathering personal experiences and expert evidence. In 2024, the [Assisted Dying for Terminally Ill Adults Bill](#) was introduced and is currently in its second reading in the House of Lords. The bill proposes a physician-assisted suicide procedure, where individuals could end their life via self-injection. Despite [concerns](#) that private members' bills rarely pass into law, the previous and current Prime Ministers have pledged to bring the issue to the [government's agenda](#). Discussions are yet to take place.

As Europe grapples with the ethical, legal, and social complexities of assisted dying, there is a discernible shift towards recognising the right to die with dignity. Some countries have embraced laws that allow assisted dying, while others, like the UK, continue to debate the issue. However, many of these legal frameworks and draft bills still restrict assisted dying to individuals who can self-administer the drug, leaving those without physical autonomy in a legal and ethical limbo. Evidence of this is in the recent Health and Social Care Committee's oral evidence on assisted dying. No Committee member nor any of the 23 national and international experts raised the question as to the right to die with dignity for those for whom self-administration is not an option.

As public pressure grows and legal precedents evolve, Europe appears to be moving towards broader acceptance of assisted dying, albeit with significant challenges and limitations still to be addressed.