

# **EUTHANASIA. A HUMAN RIGHT TO CHOOSE OR A CRIME?**

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**Summary:** The most protected and protected individual right is the right to life. This right is protected not only by national, but also by various international legal acts and conventions. Without life, a person is no longer a person, when life ceases, the existence of that person in different roles - lover, father, mother, daughter, brother - ends. But where there is a right, there is a duty. Hence, defending the right to life entails an active duty to protect it. The question arises whether a person with the right to life does not have a countervailing right to choose to end his life for important reasons - chronic pain, physical or mental illness that prevents a quality life. Although active euthanasia is legal in only a few countries, passive euthanasia is allowed and recognized in most countries. When considering the arguments for and against euthanasia, it is first necessary to find out the very meaning and essence of the concept, what it is, and why this issue causes so much conflict between supporters and opponents of euthanasia. In any case, helping a person who is in or feels hopeless to die is not valued unambiguously. The article reviews the development of euthanasia, how the attitude towards it changed in different periods, and the conflict between science and faith in the issue of euthanasia.

**Key words:** euthanasia, right to life, decriminalization.

The topic of euthanasia has always been relevant, and nowadays, when the number of accidents and incurable diseases increases, new viruses, and diseases appear that undermine human health, and the issue of voluntary termination of life (with the help of others) becomes even more relevant. This is confirmed by the fact that more and more people are hearing about the initiative to legalize euthanasia in one or another country. Here in Italy, a particularly Catholic country, 750,000 signatures were collected in August 2021 for holding a referendum to legalize euthanasia. Although the Italian Constitutional Court rejected the request for a referendum to decriminalize euthanasia, the Italian public has shown that people want to make their own decisions about ending their lives. A similar thing happened in Portugal, where the law on the decriminalization of euthanasia was vetoed by the president. The people of Austria also expressed their will and from 2022 January the 1<sup>st</sup> A law legalizing

assisted suicide has come into force in Austria. So far, all previous attempts to legalize euthanasia in Lithuania have ended unsuccessfully.

As humanity moves deeper and deeper into the world of technology and artificial intelligence, will euthanasia become self-evident and freely chosen, or will guardians of life as a divine gift and proponents of spiritual ideas still not allow this phenomenon to take hold?

Although the topic of euthanasia is very relevant, recently not many scientific articles have been written about it in Lithuanian. Dr. wrote extensively about euthanasia. M. Liesis, he examined the issue of euthanasia in criminal law in his articles, and prof. A. Narbekovas analyzed the use of euthanasia terms in „The problem of the use of euthanasia terms in bioethics and law in Lithuania”. Of course, representatives of the Church constantly talk about euthanasia.

The purpose of the research is to analyze euthanasia as a phenomenon and why the public's attitude towards euthanasia is so ambiguous.

## The concept of euthanasia

Although there is no single, universally defined term for euthanasia, it has been established that the term euthanasia comes from the Greek language and means „good death” (Greek Euthanasia < eu - good + thanatos - death). Drakšas (2021) claims that the term euthanasia was first used in the 16th century by the English philosopher Francis Bacon, euthanasia then meant an easy and painless death<sup>1</sup>. On the other hand, Gefen points out that F. Bacon did not write about euthanasia as an easy death in the 16th, but in the 17th century. and that T. More was the first to try to describe euthanasia in his work „Utopia” (1516)<sup>2</sup>. Erdemir, Elcioglu (2001) point out that the term „euthanasia” was first used by the Roman historian Suetonius, who was born around 69 and died around 122, which means that the term euthanasia could have been used for the first time in the 1st-2nd century<sup>3</sup>. According to Gefen (1995), a specialist in medical ethics, euthanasia could be when one person ends the life of that person in a conscious act in order to relieve another person from suffering<sup>4</sup>. Pereira (2012) also talks about the relief of insurmountable suffering, stating that euthanasia can be defined as the deliberate intervention of a person to end another person's life<sup>5</sup>. It should be mentioned that Liesis (2009) also describes euthanasia as the intentional taking of a person's life, when that person's life and further life become incompatible due to poor quality of life, which is influenced by that person's health<sup>6</sup>. As you can see, the emphasis is on ending suffering, so it is as-

1 R. Drakšas, *Eutanazija ir žmogaus teisių įgyvendinimas. Teisė neketėti*, IQ 2021.

2 *Eutanazija. Mokslo ir enciklopedijų leidybos centras.*

3 A. D. Erdemir, O. Elcioglu, *A short history of euthanasia laws, and their place in Turkish law*, „Eubios Journal of Asian and International Bioethics” 2011, vol. 11, p. 47-49.

4 E. Gefenas, *Eutanazija*, „Vilnius: Filosofijos ir sociologijos institutas” 1995, vol. 9.

5 J. Pereira, *Legalizing euthanasia or assisted suicide: the illusion of safeguards and controls*, US: Current Oncology 2012.

6 M. Liesis, *Baudžiamosios atsakomybės už eutanaziją netaikymo galimybės*, „Vilnius: Teisės Problemos” 2009, no 1 (63).

sumed that euthanasia is a way of helping the suffering. However, it should be noted that physical illness and physical suffering do not necessarily mean a fatal illness, it can also be a mental state of a person, when neither therapy nor medicine helps, a person constantly experiences unbearable emotional and psychological suffering. It can be said that this type of assistance is quite drastic, but of course it is necessary to assess the relationship between the suffering experienced by the person and the desire to save life at any cost.

## **Attitudes towards euthanasia in different civilizations**

As mentioned, T. More (1516) was the first to write about euthanasia as an easy way out of suffering: „But if someone is suffering from excruciating, prolonged pain, without hope of recovery or relief, priests and magistrates urge them, because they can no longer continue their lives, become a burden to themselves and others, and have actually outlived themselves, they should no longer cherish the entrenched disease, but should choose death, because they can live only in great suffering; if they are persuaded and free themselves from suffering or allow others to do so, they will be happy after death.”<sup>7</sup> Despite the fact that T. More advocated euthanasia in his work, he very clearly distinguished that if euthanasia was carried out as a simple suicide, without the approval of the priests and the senate, the body of such a dead person should not be buried honorably, but simply thrown into a pit. This shows that it was intended that only in case of serious reasons one could use the opportunity to leave on one’s own, so that euthanasia would not be used as a means of killing oneself without incurable illness. In ancient times, civilizations accepted euthanasia in different ways, for example, Mesopotamia doctors forbade euthanasia, on the contrary, in Ancient Greece, disabled newborns were killed, and to patients who suffered inhuman pains and had an incurable disease, doctors gave drugs that helped them commit suicide, while in Ancient Rome, euthanasia was treated as premeditated murder. Hence, the topic of euthanasia has not only been relevant since the beginning of humanity, but it has always been controversial, never accepted unambiguously and easily, human life and the issue of taking it away have raised existential questions and fierce debates. However, the greatest argument of the opponents of euthanasia became the Hippocratic Oath, the original text of which states that „I will not give deadly poison to anyone, even if they ask for it the most. I will also not support their similar ideas with advice. In addition, I will not give any woman a means to destroy a conceived germ or fetus.”<sup>8</sup> A significant part of the original text has become irrelevant to the modern world and is practically impossible to apply, so in 1997 the Lithuanian Association of the World Federation of Doctors „For

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7 K. M. McCarthy, *Restoring the Richness: The Influence of Utopia on Walker Percy’s Love in the Ruins*, 2012.

8 V. Grincevičienė, J. Grincevičius, Š. Grincevičienė, *Antikos pedagoginių idėjų recepcija dabarties edukacinėse erdvėse*, „Filosofija. Sociologija” 2011, vol. 22(3), p. 278-285.

Human Life” renewed the oath and the part relevant to euthanasia talks about the fact that the doctor undertakes from the beginning of a new human life until natural death to protect and respect her dignity, inviolability and never give a lethal dose of medicine to a person either himself or asked<sup>9</sup>. It is unequivocally forbidden for doctors to help a patient end his life under any circumstances. With the beginning of the Middle Ages and the increasing influence of Christianity, euthanasia and suicide were unequivocally unacceptable. However, when the Renaissance came, the views of humanism spread more and more, and science also improved, it is not for nothing that the Renaissance is also called rebirth. More and more autopsies were performed, doctors analyzed the bodies of the dead in more detail, found out the causes of death, and also saw what an incurable disease or a long period of pain and suffering can do to a person and his body, so the attitude towards euthanasia softened, it was no longer so categorically negative and still euthanasia never became universally acceptable and tolerable.

## **Is human life a divine gift or the result of evolution?**

As stated by Milinis (2011), the human right to life could be considered one of the most important and fundamental human rights<sup>10</sup>. Other rights and their assurance also depend on how the human right to life will be ensured. This perhaps the most important, fundamental right is established in a set of international legal acts, conventions, and human rights documents. The Universal Declaration of Human Rights contains 30 natural human rights, the third article of the declaration provides that every person has the right to life, liberty and personal integrity<sup>11</sup>. Due to the fact that this right is so exclusive, there are endless debates and conflicting opinions about its protection. Of course, capital punishment and euthanasia are the most controversial. The Church is categorically against euthanasia and the main argument it relies on is that man came from God, therefore only God can decide when a person is destined to leave. This, of course, is also the most important dispute between the church and science, which is also correlated with the topic of euthanasia. Atheists deny the existence of God in general, so they protest against the position of church representatives on euthanasia. However, it should be noted that everything is not just black and white, because it often happens that in the face of illness or misfortune, even the most anti-faith people convert and begin to believe in God as their last hope, or vice versa - deeply believing people lose hope and faith when sees that the situation is not improving at all and that death is approaching. With the change of generations, the development of technology, and the rapid progress of civilization, the number of proponents of the idea of human life as a result of evolution is increasing, and therefore problematic questions related to man as the owner and master of his own life inevitably arise more often. The Church

9 Hipokrato priesaika. LSMU biblioteka ir informacijos centras 2018.

10 A. Milinis, *Teisės į gyvybę kaip pamatinės žmogaus teisės apsauga baudžiamosios teisės priemonėmis*, „Konstitucinė jurisprudencija“ 2011, no. 2, p. 128-149.

11 Visuotinė žmogaus teisių deklaracija. *Valstybės žinios*. 2006, Nr. 68-2497.

still classifies suicide as a mortal sin, while secularists argue that suicide is simply an expression of one's will and no one should control it. However, one would like to distinguish euthanasia from suicide, because euthanasia is the termination of the patient's suffering, while a person can choose suicide because of unhappy love, overwhelmed by momentary emotions. On the other hand, who can say that a person who is going through a difficult breakup does not feel sick and see no hope of recovery? However, the representatives of the church unequivocally take the position that a person's life is intended for him from above: „Now note that I, I alone am He, there is no other God with me. I divide death and life, I wound and heal: none is able to deliver out of my hand.”<sup>12</sup> Pope John Paul II in his encyclical (1995), expressing an unequivocal attitude towards euthanasia, and loudly announcing to the world that „Euthanasia is sometimes justified not only by the false pity arising from seeing the suffering of the patient, but also by the utilitarian motive of non-returnable costs that weigh heavily on society. Therefore, it is proposed to destroy deformed babies, people with severe disabilities, invalids, old people, especially those who cannot take care of themselves, and incurable patients”<sup>13</sup> also confirms the church's position that a person's life is not in his own hands. Paradoxically, until 2018, when Pope Francis ordered to change Article 2267 of the Catechism of the Catholic Church, the church's attitude towards the death penalty was not unequivocally negative as it is and always has been in the case of euthanasia. A reasonable question arises - was the life of a criminal worth less than that of other people before the aforementioned changes? And why was it possible to take another's life - under the guise of justice - but not to die voluntarily in order to end suffering?

## Types of euthanasia

Regarding euthanasia as a general phenomenon, it is important to distinguish and analyze its individual types. According to Geffen, euthanasia is when an incurable patient is euthanized painlessly, either by medication or by some other means, in order to save him from agony, an incurable disease, or even to execute a court sentence<sup>14</sup>. Čekanauskaitė (2013) claims that euthanasia is a deliberate termination of life and perhaps the most important role belongs to the intention and motive of the act<sup>15</sup>. There are many definitions of euthanasia, but in essence they all describe the same end result, the termination of a person's life. It is important to note that there is no general and universal agreement on the classification of types of euthanasia, but the types discussed below are most commonly mentioned.

### 1.1. Passive and active euthanasia

These are the best known types and the very names imply that in active euthanasia something is done through active action (action) that causes the person to end

12 *Rubšio ir Kavaliausko Biblija. Pakartoto įstatymo knyga*. Katalikų interneto tarnyba 1998.

13 Popiežius Jonas Paulius II., *Enciklika Evangelium Vitae apie žmogaus gyvybės vertę ir neliečiamumą*. Katalikų interneto tarnyba 1995.

14 Eutanazija. Mokslo ir enciklopedijų leidybos centras.

15 A. Čekanauskaitė, *Eutanazija ir savižudybė su pagalba*. Lietuvos bioetikos komitetas 2013.

their life, the most popular example being the administration of a lethal dose of medication. And passive euthanasia could be described as not taking active actions (inaction) in order to save a person's life, thus allowing the person to die. Failure to act can include failure to administer necessary medications, failure to turn on life support devices. But isn't such inaction in some sense indirect acting? How to draw the line between the administration of a lethal dose of medication and the opposite action - refraining from giving the necessary medication to the patient? After all, in both cases the result will be the same, the person will die, only in the first case it will happen quickly and painlessly, one can say dignified, and in the second case the suffering of the person will be prolonged, so can it not be said that in the second case more damage is done? Čekanauskaitė (2013) notes that the difference between active and passive euthanasia is important in that passive euthanasia or non-application of treatment is generally tolerated and supported by both society and doctors<sup>16</sup>. Meanwhile, the active form of euthanasia is unequivocally rejected. However, doesn't such a difference make the society hypocritical, when, ostensibly in order to justify the preservation of life, it is tried to do so at any cost, further harming the one who is wanted to be saved. Assisted suicide is distinguished as a separate form of active euthanasia. It differs from active euthanasia in that it is not the doctor who injects the minimum dose of medicine, but the patient himself, the doctor only explains about the required dose. Basically, in both forms, the necessary doctor-patient relationship remains, only in the second case the role of the doctor is not so active and may be more morally acceptable to the doctor himself.

### *1.2. Passive euthanasia and withdrawal or refusal of treatment*

It should be noted that euthanasia is not always the case when the patient's treatment is stopped, and this ends in the patient's death, because the essential condition of euthanasia is that the person himself must want to end his life. However, sometimes the treatment is simply no longer appropriate, as its continuation will not have any positive effect on the patient's health, or will even cause harm. There are also possible cases when, by continuing the treatment, the patient's life time will be extended, but, for example, the patient will suffer from great pain, will be limited to live a quality life, so the treatment would be pointless, because the means would not justify the goal, the limits of the principle of reasonableness would be exceeded. And in such a case, you cannot talk about euthanasia, because the person does not choose death himself, simply all the possibilities to cure him have been exhausted. One should not forget the refusal of certain treatment due to religious beliefs, and if such refusal of treatment ends in the death of the patient, it will not be euthanasia either, because the person did not want to die, but could not use all treatment options due to religious views. The most famous example, of course, would be Jehovah's Witnesses, who refuse blood transfusions in favor of other alternatives<sup>17</sup>.

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<sup>16</sup> Ibidem.

<sup>17</sup> *Why don't Jehovah's Witnesses Accept Blood Transfusions?* Watch Tower Bible and Tract Society of Pennsylvania.

## The first country to legalize euthanasia

The first country in the world to legalize active euthanasia is the Netherlands. In 2001 April 12 a law was passed on the legalization of euthanasia, which entered into force in 2002. April 1 The Netherlands is one of the most liberal countries in the world, where prostitution was one of the first to be decriminalized, leaving men and women the right to choose such a livelihood and receive social guarantees, so it is not surprising that the Dutch were the first to make clear decisions when it comes to human autonomy in choosing when to leave. In order for euthanasia to be carried out, 6 conditions must be met: 1. the doctor must make sure that the patient's wish for euthanasia is voluntary and well thought out, that the patient was not influenced by others, family members, and that the patient had already discussed euthanasia with his family doctor once, i.e. i.e. that the wish for euthanasia to be carried out is not considered to be instantaneous; 2. the doctor must be convinced that the patient is suffering severely with no chance of recovery; 3. the doctor must provide the patient with all information related to his illness and future prospects, so that the patient can objectively assess his situation; 4. the doctor, together with the patient, must assess that there are no alternatives in the patient's situation; 5. the patient's doctor must additionally consult at least one other independent doctor; 6. Finally, the doctor must strictly follow the prescribed procedure when performing the euthanasia procedure<sup>18</sup>. As can be seen, the issue of euthanasia is regulated, clear requirements have been established for both the patient and the doctor. It goes without saying - after all, we are talking about human life, so decisions cannot and must not be taken lightly.

## Legalization of euthanasia in Lithuania

Article 19 of the Constitution of the Republic of Lithuania stipulates that „The human right to life is protected by law.”<sup>19</sup> Also, Article 18 of the Constitution states that „Human rights and freedoms are natural.”<sup>20</sup> These provisions confirm the provisions of the Universal Declaration of Human Rights that life is one of the most important and the most protected values. However, there have already been discussions regarding the legalization of euthanasia in Lithuania, and draft laws were submitted to regulate the euthanasia procedure. The first such project was submitted for consideration back in 2012<sup>21</sup>, the other two were submitted for consideration in 2014<sup>22</sup> and 2015<sup>23</sup> by Seimas member Aušrinė Marija Pavilionienė. Unfortunately, none of the aforementioned projects was approved and never saw the light of day in the form of a law. Still, there are those who say that even though it is not legalized, some form of euthanasia exists in Lithuania.

18 *De 6 zorgvuldigheidseisen van de euthanasiewet*. De Rijksoverheid voor Nederland.

19 „Lietuvos Respublikos Konstitucija. *Valstybės žinios*” 1992, no 33-1014.

20 *Ibidem*.

21 „Lietuvos Respublikos eutanazijos įstatymo projektas” 2012, no XIP-4142.

22 „Lietuvos Respublikos eutanazijos įstatymo projektas” 2014, no XIIP-2071.

23 „Lietuvos Respublikos eutanazijos įstatymo projektas” 2015, no XIIP-2071(2).

The position that certain forms of legalized euthanasia occur in practice is also supported by lawyer Rudanov (2015), stating that the pace of treatment in the health system, the capacity of budget financing and the related consequences (not providing timely health care services), allow us to state that euthanasia exists in Lithuania<sup>24</sup>. Of course, we are talking figuratively, but this only shows people's attitude towards the current situation in Lithuania. In Lithuania, we are often happy that a person left easily, we hope and wish for each other that a calm, dignified exit is for everyone, because none of us want to die in pain and suffering, or being chained to the bed and not feeling anything (for example, due to paralysis), but sober understanding that we are a burden to our loved ones and that it will never be otherwise.

The question is, wouldn't it be simpler if a dignified exit were regulated legally, with appropriate levers and limits, according to the will expressed in advance, so that such difficult decisions as disconnecting life support machines do not fall on the shoulders of loved ones later? For many years, Lithuania has been leading the number of suicides in Europe. Although no official data has been collected, psychiatrist Marcinkevičius (2022) claims that some suicides occur when people perform euthanasia using the methods they know how to do<sup>25</sup>. Analyzing the causes of suicides, I think one could come to the conclusion that one of the frequent reasons why a person decides to end his life is chronic, incurable diseases that cause great, constant physical pain and thus limit the possibility of living comfortably or even independently from other people. This again correlates with the above-discussed statement by Urmonaitė that the health care system in Lithuania requires a lot of attention and changes<sup>26</sup>.

It can be concluded that after euthanasia is legalized and the procedure for its execution is clearly regulated, it is likely that the number of suicides in Lithuania would decrease, because more attention would be paid to the seriously ill, and before they give permission for euthanasia, more efforts would be made to alleviate their suffering, and maybe it would even be an incentive. to compensate for especially necessary medications, without which patients independently organize support actions and try to collect the necessary amounts in order to be able to live, and if these goals are not achieved, drastic measures are taken.

## Conclusions

It is no secret that Lithuania is an aging nation. The aging rate of the Lithuanian population is almost 2 times faster than the average of the European Union. The European Commission predicts that in three decades, in 2050, the median age of the country's population will reach 51 years<sup>27</sup>. and will be almost 7 years higher

24 „Konferencija „Eutanazija Lietuvoje: ar esame tam pasiruošę“ 2015.

25 <https://m.diena.lt/naujienos/sveikata/sveikata/eutanazija-lietuvoje-ar-pribrendome-dialogui-1058276>

26 K. Urmonaitė, *Asistuosot savijudybės ir eutanazijos įteisinimo perspektyvos Lietuvoje* (Doctoral dissertation, Mykolo Romerio universitetas) 2018.

27 Senstanti Lietuvos visuomenė. *Analitinė apžvalga*. Vyriausybės strateginės analizės centras 2020.

than at present. In 2050 only Italians, Portuguese and Croatians will be older than Lithuanian residents. For comparison, in 1990 the median age in Lithuania was 33 years. At that time, the country's population was one of the 6 youngest in Europe. Since ancient times, Lithuanians have been religious people, especially faith and the influence of the priest are strong in districts, rural areas, where more elderly people live. Bearing in mind the Church's attitude towards euthanasia, the word preached by priests that man has come from God and that God should be feared, it is not surprising that older people, especially those who diligently attend church, speak categorically about euthanasia as a great sin. This attitude of believers is relevant all over the world, so it is likely that, as already mentioned, until several generations change and the influence of the Church does not decrease, the issue of euthanasia will remain sensitive.

Therefore, when thinking about the initiative to legalize euthanasia, the public should first be educated more, showing and emphasizing that faith and science are not opposites, these two worlds can perfectly work together.

When it comes to euthanasia, it is important to show the side of illness and suffering not only from the perspective of the patient but also from the perspective of his relatives, for whom the expressed will of the relative in advance would in many cases make it easier to come to terms with the loss.

A dialogue between the initiators of the laws and the public is necessary in order to answer the questions that have arisen and provide explanations from specialists in their field (doctors from various fields).

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- *Why don't Jehova's Witnesses Accept Blood Transfusions?* Watch Tower Bible and Tract Society of Pennsylvania.

## EUTANAZJA. PRAVO CZŁOWIEKA DO WYBORU CZY PRZESTĘPSTWO?

**Streszczenie:** Najbardziej chronionym prawem jednostki jest prawo do życia. Prawo to jest chronione nie tylko przez krajowe, ale także przez różne międzynarodowe akty prawne i konwencje. Bez życia człowiek przestaje być człowiekiem, kiedy życie ustaje, kończy się istnienie tej osoby w różnych rolach - kochanka, ojca, matki, córki, brata. Tam, gdzie jest prawo, jest i obowiązek. Stąd obrona prawa do życia pociąga za sobą aktywny obowiązek jego ochrony. Pojawia się pytanie, czy osoba posiadająca prawo do życia nie ma równoważnego prawa do jego zakończenia z ważnych powodów - przewlekłego bólu, choroby fizycznej lub psychicznej, która uniemożliwia godne życie. Chociaż eutanazja czynna jest legalna tylko w kilku krajach, eutanazja bierna jest dozwolona i uznawana w większości krajów. Rozważając argumenty za i przeciw eutanazji, należy najpierw poznać samo znaczenie i istotę tego pojęcia, czym ono jest i dlaczego kwestia ta wywołuje tak wiele konfliktów między jej zwolennikami i przeciwnikami. Pomoc osobie, która jest w krytycznym stanie, nie jest jednoznacznie ceniona. W artykule dokonano przeglądu ewolucji eutanazji jako pojęcia jak i zjawiska oraz tego, jak stosunek do niej zmieniał się na przestrzeni lat. Poruszono także zagadnienie konfliktu między nauką a wiarą w kontekście eutanazji.

**Słowa kluczowe:** eutanazja, prawo do życia, dekryminalizacja.