

Italy – Released the proposal regarding medical assisted dying

After years of debating, a proposal by popular initiative signed by 140.000 Italian citizens in 2013, a sentence of the Supreme Court inviting the Parliament to legalize the MAID, finally a proposal has been released by the Parliamentary Committees Justice and Social Affairs.

The proposal consists of 8 articles, synthesized as follows:

Article 1 Purpose

The law governs the right of the person affected by an irreversible pathology or with a poor prognosis to request medical assistance, to put an end voluntarily and autonomously to his life, within the limits and conditions provided for by this law.

Article 2 Definitions

Medically assisted voluntary dying is understood to mean dying caused by an autonomous act by which, because of the way governed by the rules of this law, one ends one's life voluntarily, with dignity and awareness, with the support and supervision of the National Health Service.

Article 3 Assumptions and conditions

1. The person, capable of making free and conscious decisions and suffering from physical or psychological suffering considered intolerable, can apply for voluntary medically assisted dying.
2. This person must also be in the following conditions:
 - a) be affected by an irreversible disease or with a poor prognosis or an irreversible clinical condition.
 - b) be kept alive by life-sustaining treatments *).
 - c) be assisted by the palliative care network or have expressly rejected such assistance.

Article 4 Requirements and form of the request

The article describes the method of compilation of the request for medically assisted voluntary dying by a patient which must be informed, be conscious, autonomous, and unequivocally. The request can be revoked at any time without formal requirements and by any means suitable to reveal the will. If the conditions of the patient do not allow it, the request can be expressed and documented with any suitable device that allows him to communicate and unequivocally express his will.

The request for medically assisted voluntary dying must be addressed to the general practitioner or to the doctor treating the patient.

Article 5 Instructions for drawing up and handling of a request

The article describes the content and the way a request of medical assisted dying is handled among other:

- The patient has the right to indicate who must be informed within his family or the network of friends and who can be present at the time of the assisted dying.

- The report drawn up by the doctor is forwarded to the Ethics Committee of the competent hospital.
- The Committee, within seven days after receiving the request, expresses a reasoned opinion on the existence of the conditions and requirements to support the request for medically assisted voluntary dying, and sends it to the requesting doctor and to the person concerned.
- If the opinion is favorable, the requesting doctor sends the request, together with all the documentation in his possession, to the Management of the Territorial Health Authority or to the Management of the Hospital of reference, which must activate the necessary verification to ensure that the death occurs in compliance with the procedures of this law, at the patient's home or, where this is not possible, at a hospital or public residential facility.
- Death because of medically assisted voluntary dying is equivalent to the death by natural causes.

Article 6. *Clinical Ethic committees*

Establishes among other that within 180 days of the approval of this law, the Committees are established and regulated by the Territorial Health Authorities **). They must be multidisciplinary, autonomous, and independent, and made up of professionals with clinical, psychological, social, and bioethical skills.

Article 7. *Exclusion of punishment)*

The provisions contained in articles 580 and 593 ***) of the criminal code do not apply to doctors and health and administrative personnel who have initiated the procedure of medically assisted voluntary dying as well as to all those who have facilitated in any way the sick person to activate, instruct and lead a termination of the aforementioned procedure, if it is performed in compliance with the provisions of this law.

The dispositions are also applicable for anyone who has been convicted, even with a final judgment, for having facilitated in any way the voluntary medically assisted death of a person before the entry into force of this law is not punishable, if at the time of the fact the procedures applied reflect the dispositions of articles 2 and 3.

Article 8. *Final provisions i*

Within 180 days from the date of entry into force of this law, the Minister of Health:

- identifies the requirements of the structures of the National Health Service suitable for accommodating people who will request medically assisted voluntary dying.
- defines the protocols and methods of health care for medically assisted voluntary dying.
- defines the procedures necessary to ensure psychological support to the patient and his family.

The Minister of Health annually presents to the Chambers a report on the state of implementation of the provisions of this law.

*) The proposal reflects only the ruling of the Supreme Court In 2018, in the DjFabo case, that in certain circumstances like unbearable sufferance and lack of prospective of recovery and which survival depends on mechanical devices (treatment of life support), the assistance to suicide was permitted,

It does not consider the ruling of the Court of Appeal of Genova in 2021, in the Trentini case, that assistance in dying of a consenting part was also permitted for patients depending on life-supporting machinery but also patients who receive “all kinds of health treatment or realized through pharmaceutical treatments or through assistance by medical or paramedical staff or with the support of medical equipment including the artificial nutrition and hydration”. This means that, for example, patients suffering of cancer and terminally ill, cannot request the medical assisted dying.

***) The Italian health system is organized in such a way that the responsibility for this system is entrusted to the Regions.

***) Article 580, first phrase, reads: “Whoever causes others to commit suicide or reinforces another's intention to commit suicide, or in any way facilitates its execution, is punished, if suicide occurs, with imprisonment from five to twelve years. If the suicide does not occur, he is punished with imprisonment from one to five years, provided that the attempted suicide results in a serious or profoundly serious personal injury.”

The synthetization of article 593 is as follows “Anyone who finds a human body that is or appears inanimate, or a person injured or otherwise in danger, fails to provide the necessary assistance or to give immediate notice to the Authority is punished with imprisonment of up to one year or with a fine of up to two thousand five hundred euros.

The initiative of the Associazione Luca Coscioni regards instead the partly repeal of article 579 (murder of the consenting person) of the Penal code as follows (in bold the proposed phrases to be repealed): **Article 579** *Criminal code and related proposed repeals* “Anyone who causes the death of a person, with his consent, is punished with **imprisonment from six to fifteen years. The aggravating circumstances indicated in article 61 do not apply. Are applied** the provisions relating to murder (articles Criminal code 575-577) if the crime is committed.”

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