

## **Key 1. Medical assistance to suicide is a medically assisted death benefit and is part of the fundamental right to die with dignity in Colombia.**

Throughout the decision, the Court not only argues why medical assistance to suicide (AMS) is decriminalized, it also catalogs it as another of the benefits of medically assisted death along with euthanasia.

The decision of the Plenary Chamber of the Constitutional Court allowed the AMS to be practiced without criminal sanction under [the same requirements of euthanasia](#):

1. When the person has expressed his free, informed and unequivocal consent.
2. When the person has a bodily injury or a serious and incurable illness properly diagnosed.
3. As a result of the condition, she is subjected to physical and mental pain incompatible with her idea of dignity.
4. That assistance in causing death is provided by a medical professional.

Likewise, the AMS is part of the fundamental right to die with dignity. Death with dignity is not synonymous with euthanasia or MSA. Together with [palliative care](#) and the [Adequacy of Therapeutic Effort](#), they are all mechanisms of the same right: to be able to make decisions about when and under what conditions to live at the end of life. In that sense, it is up to each person to choose which ones to access and, according to their wishes and beliefs, define whether medically assisted death benefits are an option.

## **Key 2. For the first time, the principle of solidarity is developed as part of medical practice in the key of a dignified death.**

Although the Court had referred to the issue in the past, it is the first time – after fourteen judicial decisions – that it makes a more extensive analysis with respect to solidarity and medical practice in medically assisted death processes. In particular, the decision explains that the principle and duty of solidarity not only corresponds to the State, but to people, especially those who are able to help. And, in that sense, medical professionals not only fulfill a social function, but "the medical act implies the understanding of the patient in all its dimensions".

On the role of medical professionals, the Court establishes that the pain and suffering of the patient directly involve the doctor, who is able to reduce pain and help those who have already made the decision to end their life. It further states that:

"The doctor can act ethically, and following the highest principles of morality, when he does so motivated by altruistic ends such as solidarity and respect for the patient who faces suffering that he considers unworthy": Decision C-164 of 2022

For the Court it is evident that the medical professional acts by virtue of solidarity when he participates in the AMS because (1) the purpose of the act is to end suffering and (2) the help is given in order to comply with the will of the person who has already made a decision.

For this reason, the AMS not only consists of providing the medication, but also of an accompaniment until the end "to guarantee that until the last moment the patient maintains his dignity". Thus, in the framework of a doctor-patient relationship that "is not authoritarian or

paternalistic", the medical professional is called to provide rigorous and necessary information without imposing his will.

Now, although the aid is not penalized, there is no obligation for the medical professional to provide the AMS. Although there is no mention of conscientious objection, it is clear that no professional is obliged to assist a person in causing his or her death.

### **Key 3. The Constitutional Court prioritizes biographical life over biological life.**

In this new decision, the Court reiterates what it has pronounced in others on the right to life: "life is not reduced to a mere biological fact, but is understood as the condition of possibility of the development of an autonomous and full life project." Therefore, it is up to each person to judge the life that deserves to be lived according to his idea of dignity. In this decision, once again, the right to life and autonomy and freedom are intertwined as one of the ways in which dignity is configured.

It clarifies, as explained in 1997 with Judgment C-239, life is a right and a very important value, but it is not sacred "because in a pluralistic system, a religious or metaphysical vision of life could not be preconceived." Thus, the holder of the legal good of life, that is, each person – when he experiences suffering from a serious and incurable illness and has expressed his will freely – is not harmed by the participation of the professional in the AMS. On the contrary, when the person has the option to make this decision, biographical life prevails: who that person is, his trajectory and his life project, what are his desires and beliefs, what he considers what is worthy and how he wants death to occur.

### **Key 4. The AMS is understood as a claim of the agency of the people about the time of death.**

Unlike solidarity, autonomy and the free development of personality have been perspectives dealt with in depth in the jurisprudence of the Court with respect to death with dignity. Jurisprudence has repeatedly declared that autonomy over life and the body – also in decisions at the end of life – corresponds to each person, since it is he who is called to freely define his existence. For this reason, the Court compares the conduct of those who commit suicide or attempt to commit suicide – without help – and how this decision is an expression of autonomy from which a criminal investigation is not derived neither for the person nor his family.

Opting for the AMS, says the Court, "guarantees to a greater extent human dignity, autonomy and the free development of personality, since it is the patient who self-administers the prescribed medication." Because of how death occurs, there is greater control of the individual over the dying process, as the act is not delegated to another person.

"Whoever opts for the AMS instead of euthanasia, is neither more nor less than demanding *agency* to end their suffering; because it prefers not to delegate such an important occurrence to a third party": Decision C-164 of 2022

In that sense, the Court explains that both medically assisted death benefits (euthanasia and AMS) are expressions of autonomy, however, the AMS is a claim of the agency of the people over the entire process of death.

## **Key 5. The Congress of the Republic is called upon to regulate the materialization of the AMS.**

The Constitutional Court once again urges the Congress of the Republic to regulate the right to die with dignity, including the AMS. After 25 years of the decriminalization of euthanasia, the Plenary Chamber asks Congress – as it has reiterated on seven occasions – to advance in the protection of the right to die with dignity to regulate the conditions of its practice and, in turn, the barriers that still exist can be eliminated.

The decision explains that the decriminalization of the AMS does not immediately result in the provision and that the way in which the legal practice will materialize within the framework of the Health System, will depend on Congress. At the same time, it clarifies that the decriminalization of the AMS does not imply that the suicide prevention actions that the legislature should promote should not continue.

From DescLAB we will continue to insist that the Statutory Bills presented in Congress include both euthanasia and the AMS as part of the exercise of a dignified death within the framework of freedom and autonomy that people have at the end of their lives.