CRIMINALIZATION OF ASSISTING SUICIDE VIEWED THROUGH THE PRISM OF THE RIGHT TO LIFE

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Introduction

The right to life is the most fundamental right guaranteed by the Constitution of the Republic of Serbia and a number of international treaties. It belongs to the range of human rights that cannot be derogated from (Kolarić, 2008:11). However, there are inherent limitations to the right to life. Therefore, the dilemma arises whether the right to life, one of the non-derogatory rights in which certain inherent limitations are incorporated, is of an absolute character. If deprivation of life is allowed in some situations, does that, by the nature of things, deny it its absolute character? There are numerous decisions of the European Court of Human Rights that we will deal with on this occasion and try to determine how a right that is limited by its very definition (Article 2, paragraph 2 of the ECHR) can be of an absolute nature. A special place will be taken by the analysis of the decision of the Federal Constitutional Court of Germany, in which we find that the criminalization of assisting suicide is unconstitutional. Also, of great importance is the ECtHR decision *Mortier v. Belgium*, which for the first time examined whether the act of euthanasia was in accordance with the ECHR and where the nature and scope of the state's positive obligations (material and procedural) based on Article 2 were clarified in a very specific context.

Article 24 of the Constitution of the Republic of Serbia (Constitution of the Republic of Serbia, Official Gazette of the Republic of Serbia, Nos. 98/2006, 115/2021), titled "Right to life," emphasises that human life is inviolable. Paragraph 2 states that there shall be no death penalty in the Republic of Serbia, and Paragraph 3 expresses that cloning of human beings shall be prohibited. Article 23, titled "Dignity and free development of individuals," proclaims that human dignity is inviolable and everyone shall be obliged to respect and protect it. It also stresses that everyone shall have the right to the free development of their personality if this does not violate the rights of others guaranteed by the Constitution.

Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Law on the Ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Official Gazette of Serbia and Montenegro – International Agreements, Nos. 9/2003, 5/2005, and 7/2005-corr., and Official Gazette of the Republic of Serbia – International Agreements, Nos. 12/2010 and 10/2015) guarantees the right to life. Also significant are Protocols No. 6, concerning the abolition of the death penalty in times of peace, and No. 13, concerning the abolition of the death penalty in all circumstances. It is stressed that everyone's right to life is protected by the law. No one can be deprived of life intentionally except in the execution of a sentence by a court following one's conviction of a crime for which this penalty is provided by law.

This provision is amended by Protocols Nos. 6 and 13 to the ECHR. In accordance with Article 1 of Protocol 6, titled "Abolition of the death penalty," the death penalty is abolished. No one shall be condemned to such penalty or executed. In accordance with Article 2, "Death penalty in time of war," a

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state may make provision in its law for the death penalty concerning acts committed in time of war or of imminent threat of war, and such penalty can only be applied in the instances laid down in the law and in accordance with its provisions. The state shall inform the Secretary General of the Council of Europe of the relevant provisions of that law.

In accordance with Article 1 of Protocol No. 13, titled "Abolition of the death penalty," the death penalty is abolished. No one can be condemned to such penalty or executed. Namely, the member states of the Council of Europe, convinced that everyone's right to life is a basic value in a democratic society and that the abolition of the death penalty is essential for the protection of this right as well as for the full recognition of the inherent dignity of all human beings, wishing to strengthen the protection of the right to life guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 as well as noting that Protocol No. 6 to the Convention, concerning the abolition of the death penalty, signed in Strasbourg on 28 April 1983, does not exclude the death penalty in respect of acts committed in time of war or of imminent threat of war, resolved to take the decisive step in order to abolish the death penalty in all circumstances and agreed on Protocol No. 13.

This right is limited by its own definition. Article 2 Paragraph 2 envisages that deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is absolutely necessary (in defence of any person from unlawful violence; in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; in action lawfully taken for the purpose of quelling a riot or insurrection). Article 8 of the ECHR guarantees the right to respect for private and family life. It emphasises that everyone has the right to respect for his private and family life, his home, and his correspondence. It also stresses that there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, protection of health or morals, or protection of the rights and freedoms of others.

The ECtHR practice recognises three fundamental obligations of a state concerning the protection provided by Article 2. These are the state's obligation to refrain from deprivation of life (negative obligation), the state's obligation to take all reasonable measures within its jurisdiction with a view to protecting a person's right to life, not only from the injuries inflicted by the state and its officials but also from those inflicted by private persons (positive obligation), and the state's obligation to carry out an efficient and purposeful investigation in the cases of deprivation of life in order to clarify the specific event and punish the perpetrators. Carrying out an efficient and purposeful investigation is of special importance in cases involving forced disappearances and/or persons deprived of freedom by the state who subsequently went missing or were found dead. The right to life also protects individuals from being exiled or extradited to a country where they can be faced with a serious threat of injury to their right to life (Grdinić, 2006:1089).

The European Court of Human Rights takes the stance that the right to life is one of the "inviolable, inalienable" human rights that are guaranteed to everyone, in all circumstances and all places, and that it cannot be subjected to any derogation. It is one of the rights through which freedom is established and one that entails the state's positive obligation to take all necessary measures in order to protect the life of a person under its jurisdiction (LCB v. The United Kingdom, 9 June 1998, Paragraph 36).

This positive obligation of the state also includes substantive and procedural legal aspects.

From a substantive legal perspective, the positive obligation of the state is to take all necessary measures with a view to preventing violent death, which entails the establishment of a legal framework aimed at providing efficient protection from threats to the right to life (Osman v. The United Kingdom, 28 October 1998, Paragraphs 115 and 116).

Efficient criminal and other legal norms are therefore necessary in order to provide discouragement from committing criminal offences against life, and so are procedural mechanisms for the prevention, suppression, and punishment of any violation of these norms (Streletz, Kessler and Krenz v. Germany, 22 March 2001, Paragraph 86).

This obligation extends to taking preventive measures for the protection of life, especially in respect of dangerous activities that potentially pose a risk to life (Oneryildiz v. Turkey, 30 November 2004, Paragraph 107).

From the procedural legal perspective, the positive obligation of the state in the situation when a person is deprived of life is to carry out an independent and efficient investigation in order to clarify the specific event and punish its perpetrators, which entails the existence of an efficient judicial system within which the procedure, of a character not necessarily criminal, will be carried out (McKerr v. The United Kingdom, 4 May 2001, Paragraph 111).

New, pioneering endeavours in Strasbourg legal reasoning have caused a serious dilemma in respect of understanding the right to life as an absolute right. Bearing in mind that these verdicts pertain to the field of criminal legislation, we insist on the necessity of reassessing the claim that the protection of the right to life in criminal law is independent, complete, and primary, and emphasising that the legitimacy of individual incriminations is brought into question (Stojanović, Kolarić, 2020:23), which indicates that the right to life is not protected absolutely but only in some of its aspects.

Analysing Article 2 and the limitations inherently built into the ECHR, we point out that the death penalty as a form of limitation to one's right to life is no longer permitted in countries with the heritage of the Council of Europe's democratic values. The question of death penalty is a *par excellence* question of criminal law because it primarily deals with criminal sanctions and type of punishment. However, considering the fact that it is now prohibited virtually in entire Europe, we find any discussion of this topic anachronous. In Serbia, death penalty was erased from the system of criminal sanctions by the 2002 amendments to the Criminal Law of the Republic of Serbia (Law on Amendments and Additions to the Criminal Code, Official Gazette of the Republic of Serbia, No. 10/2002).

Furthermore, Article 2 Paragraph 2 emphasises that deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is absolutely necessary (in defence of any person against unlawful violence; in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; in action lawfully taken for the purpose of quelling a riot or insurrection). The listed situations would allow for the use of lethal force on the part of persons entrusted by the state with carrying out certain tasks such as protection of public order and peace, protection of legal order as well as of the country's integrity, and similar duties (as a rule, these persons are members of the police or army force, or special units). In its decisions and verdicts, the ECtHR terms such persons as 'state agents' (Grdinić, 2006:1091).

In respect of Article 2 Paragraph 2, Strasbourg has built an abundant practice (Kolarić, 2018:58) and a large number of scientific, professional, and review papers has been written. Therefore, in the present text, we shall focus on new trends and tendencies, offering a fresh perspective on the right to life.

Design/Methods/Approach

The work will be divided into several parts. The first part will deal with the provisions that guarantee the right to life in the most important international sources and the provision of Article 24 of the Constitution of the Republic of Serbia, with a special emphasis on the ECHR and the limitations of that right arising from the Convention itself. The second part opens the legal-philosophical dilemma of whether a person's right to self-determination provides an opportunity for a person to decide on his own death. In this connection, Article 119 of the Criminal Code of Serbia is being considered in particular. The third part provides an overview of the practice of the ECtHR, as a basis for passing a final judgment on the character of Article 2 of the ECHR and Article 24 of the Constitution of the Republic of Serbia. And in the fourth part, we have a discussion, followed by conclusions. The author uses the legal-dogmatic method, the method of comparative, formal-logical analysis and the case study method.

Proceeding from the provisions of the Constitution of the RS and the provisions of the ECHR, as well as the basic features of criminal law and Article 3 of the Criminal Code, which states that the protection of human beings and other basic social values is the basis and limit for determining criminal acts, prescribing criminal sanctions and their application, to the extent in which it is necessary to suppress those acts, we come to a conclusion about the character of the right to life.

The topic is of importance both nationally and internationally and can resolve numerous newly opened dilemmas related to criminal-law protection.

Right to Life and Right to Dignity and Free Development of Individuals Decision of the German Federal Constitutional Court

The legal-philosophical debate on the relations between the two rights guaranteed by the highest legal act – an individual's right to dignity and free development and the right to life – is offered by a decision of the German Federal Constitutional Court (BverfG, Judgment of the Second Senate of 26 February 2020).

The Federal Constitutional Court pointed out that an individual's dignity and free development also include individuals' right to decide on their own death. This right further entails the right to take one's own life or, depending on the circumstances, resort to the assistance voluntarily offered by a third person to this effect. When an individual using this right decides to end his or her life, having reached this decision based on the personal assessment of the quality and purpose of existence, the state and society principally must respect such a decision as an act of autonomous self-determination. Therefore, the incrimination of assisting suicide in Paragraph 217 of the StGB is unconstitutional (Kolarić, 2023:128). This certainly does not prevent the legislator from enforcing special rules pertaining to assisted suicide. In regulating this issue, the legislator must allow enough space for an individual to use the right to decide on their own death. Namely, as the Federal Constitutional Court points out in its decision following Paragraph 217 of the Criminal Code, criminal sanctioning is envisaged for every person that, intending to provide assistance as professional service in another person's suicide, provides, procures, or creates the opportunity for the person to commit suicide. An initiative for the assessment of this provision's constitutionality has been launched by German and Swiss associations offering services of assisted suicide to seriously ill persons who wish to end their lives, with the help of such associations, doctors, and lawyers offering advice regarding any suicide-related issues.

The logic of the Court was as follows.

Firstly, the general right of a person guarantees everyone the right to choose whether, on the basis of their proper informed decision, they will take their own life. Dignity and free development of an individual are emphasised as basic human rights, originating from the perception of human beings as capable of self-determination and personal responsibility. Rooted in the belief that personal autonomy and individual development constitute an inalienable part of human freedom, the guarantee of human dignity includes, in particular, the protection of one's own individuality, identity, and integrity. Self-determination allows an individual to control his or her life in accordance with his or her wishes without being forced to live in a way irreconcilable with the individual's ideas about the self and personal identity. The right to decide on one's own death is not limited to situations of serious and incurable illnesses, nor does it apply only to certain stages of life or disease. It is guaranteed at all stages of a person's existence.

Secondly, the right to take one's own life also entails the freedom to ask and, if offered, use the assistance offered to this effect by a third person.

Hence Paragraph 217 of the Criminal Code interferes with the general right of a person who wishes to die, although the said provision does not directly refer to such persons.

It is interesting that the Decision of the German Federal Constitutional Court emphasises that the right to suicide is constitutionally recognised, and therefore motives cannot be subjected to assessment (e.g., the diagnosis of the incurable illness cannot be asked for); what can potentially be done is to check whether the individual's decision to commit suicide is serious and permanent. Such tendencies call for a reassessment of certain incriminations that have been present in our criminal legislation for a long time. To this effect, the question arises as to whether incriminating killing on request, i.e., merciful deprivation of life, is justified in our criminal law. The verdict of the German Federal Constitutional Court does not make mention of any killing on request, which is still prohibited in Germany. However, looking into some of the ECtHR's decisions and reasons listed by the German Court in its attempts to explain why assisting suicide should be allowed, i.e., that serious and stable will is required, brings forth the question of why it is not applicable to killing on request.

The Decision highlights that not any interpretation of Paragraph 217 can bring it in line with the Constitution. For what reason? The interpretation that narrows down the scope of implementation for Paragraph 217 to the effect that assisted suicide services should be allowed under certain circumstances would be in contravention to the legislator's intention and the legality principle, i.e., its *lex carta* segment. This refers to the situations in which persons use their right to self-determination and free will, as well as to the doctors who, in accordance with this provision, cannot be exempt from punishment in any conceivable interpretation. This is a general provision, applicable to every party. No privileges in terms of lesser culpability are determined in this way.

The Court highlights that the legislator does not have to entirely refrain from regulating assisted suicide but should do so in such a way as to protect the personal autonomy of every individual reaching decisions on his or her proper life. The legislator should therefore protect a person's right to self-determination. As Paragraph 341 also stresses, enough space should be left for an individual to exercise the constitutionally granted right to abandon life, based on the individual's free decision and with the assistance of others. To this effect, the coherence and compatibility of regulations should be provided, including the Law on Health Care[2] as well as the regulations pertaining to psychoactive controlled

2 Corresponding German regulations have led medical associations to refuse to provide assistance in suicide and prohibit it with obliging professional codes. Hence, the question is justifiably posed as to what that verdict means for the area regulated by medical law. It should be noted that doctors can refuse to offer such assistance and that this right of theirs can

substances. Potential abuses should be prevented, but it should also be pointed out that no one can ever be obliged to assist another person's suicide. Long and thorough work is required from the legislative body, as well as reliance on the experience of other countries and good practices. Society should be well-informed about offering assistance in suicide.

From a legal-philosophical point of view, the position of the German Federal Constitutional Court is that every person has the right to make important decisions relying on individual fundamental religious or philosophical beliefs about the value of life.

Assisting Suicide in the Criminal Code of Serbia

In our criminal law, assisting suicide is incriminated by Article 119 of the Criminal Code of the Republic of Serbia. The incrimination is referred to as inducement to commit suicide and assisted suicide. Bearing in mind the accessorily legal nature of complicity and the fact that suicide is not a criminal offence, the legislator decided, considering the social danger of complicity, to describe these acts as a separate criminal offence.

Their basic form is inducing to commit suicide or assisting suicide. If assisted suicide is provided under the conditions set forth in Article 117 of the Criminal Code, the form is privileged, which is justified in criminal-political terms, considering the fact that the person to whom assisted suicide is provided suffers from an incurable illness.

More severe forms occur when the act described in Paragraph 1 has been performed on a person under age or a person in a state of considerably diminished responsibility, whereas the most severe form occurs when it has been performed on a child or an unaccountable person. A special form is cruel and inhumane treatment of a person in a position of subordination to or dependence on the offender. Such form is in effect indirect inducement to commit suicide (Stojanović, 2012:418).

Selection from the Practice of the European Court of Human Rights

Does one's right to self-determination also include the right to decide on one's death?

In the case of Haas v. Switzerland (Haas v. Switzerland, 31322/07, 20 January 2011), the ECtHR already admitted that one of the aspects of private life is an individual's right to decide on the manner and moment of ending his or her life, under the condition that the individual is in such a position as to form his or her judgement freely and act in accordance with it.

The Grand Council verdict in Gross v. Switzerland (Gross v. Switzerland, 67810/10, 30 September 2014) established violation of Article 8 since the Swiss law is not sufficiently clear in respect of the permissibility of assisted suicide. The case refers to the complaint by an elderly lady who wished to end her life without having any clinical disease, which she filed for not being able to obtain the permission from the Swiss authorities for the lethal dose of medications with which to end her life. The Court sustained that, envisaging the possibility of obtaining a prescription for the lethal dose, the Swiss law had not provided sufficient guidelines to clearly indicate the scope of this right. Such an uncertain situation probably caused the applicant a great degree of suffering. The Court sustained that the appli-

be codified and regulated by appropriate documents. However, taking all the facts into account, they should play a role in providing that kind of assistance. No other profession can give a better diagnosis, cure or recognise pain, and provide more adequate information on the possibility of treatment.

cant's wish to be provided with the lethal dose of medications, enabling her to end her life, fell within the scope of her right to respect for private life, in accordance with Article 8. The Court observed that, in line with the Swiss Criminal Code, assisting suicide was only punishable when the perpetrator of such action had "selfish motives." In accordance with the practice of the Federal Supreme Court of Switzerland, a doctor has the right to prescribe the lethal medication in order to allow the patient to commit suicide if certain special conditions are fulfilled, as listed in the medical-ethical guidelines adopted by the Swiss Academy of Medical Sciences. In particular, alternatives for offering help should be considered, the patient has to be capable of making decisions, and his or her wish needs to be carefully thought out without any pressures from the outside. However, these guidelines do not have the form of law. Additionally, as they only apply to those patients whose doctors have reached the conclusion that the illness would result in death in several days or weeks, the applicant in this particular case was left outside the scope of their application. The Swiss Government did not present any other material offering evidence of whether and under what circumstances a doctor has the right to issue the lethal dose prescription to a patient not suffering from any terminal illness. The Court considered that this lack of clear legal guidelines had a discouraging effect on doctors, who would otherwise be inclined to provide the required prescription to the person in a situation similar to that of the applicant. This is also confirmed by the fact that the doctors she addressed refused her request because they were afraid of long court proceedings and possible negative professional consequences. Uncertainty in respect of the outcome of her request, in the situation relevant to a particularly significant aspect of her life, caused the applicant a considerable degree of pain. This situation need not have happened had there been clear state-approved guidelines to define the circumstances entitling doctors to issue the requested prescription, in the cases when individuals of their own free will made a serious decision to end their life although they were not threatened by imminent death due to any specific illness. To this effect Article 8 of the Convention was violated. At the same time, the Court did not take any stand on the question of whether the applicant should have been given the opportunity to obtain the lethal dose of the medication, enabling her to end her life. The opinion of the Court was that it was primarily the duty of national authorities to issue comprehensive and clear guidelines on deciding about this question.

To the effect of changes and new tendencies that might bear relevance to substantive criminal law, we cannot avoid mentioning the decision of the ECtHR in the case of Mortier v. Belgium (Mortier v. Belgium, 78017/17, 4 October 2022), which for the first time questioned whether an act of euthanasia was in accordance with the ECHR, also clarifying the nature and scope of the state's positive obligations (material and procedural) based on Article 2 in a very specific context. The applicant was a Belgian citizen born in 1976. The case referred to the death of the applicant's mother, who was euthanised without any notification issued to him or his sister. The applicant's mother had suffered from chronic depression for about 40 years. In 2011, she consulted Professor D. and informed him of her intention to resort to euthanasia. Despite the doctor's repeated advice, she did not wish to inform her children about her request for euthanasia. The applicant filed the complaint based on Articles 2 and 8 of the Convention.

What surprised was the claim that Article 2 of the ECHR had not been violated; the case was instead one of positive obligation as the euthanasia of the applicant's mother, who had suffered from depression for about 40 years, was in accordance with the law that approved euthanasia. The Court claimed that the presented evidence did not reveal any violations of the provisions of Article 2 of the Convention in this case of an act performed in accordance with the established legal framework. Article 8 was not violated either – the right to respect for private and family life. The Court determined that the doctors assisting the applicant's mother had done what was reasonable, in accordance with the law,

their obligation of confidentiality and professional secrecy, as well as the ethical guidelines, in order to ensure the woman contacted her children about her request for euthanasia.

This verdict is significant because the Court questioned for the first time whether the act of euthanasia was in accordance with the Convention, and it clarified the nature and scope of positive obligations (material and procedural) of the state as regards Article 2, in this highly specific context of a patient who requested euthanasia not because she was suffering from any physical pain or the threat of imminent death, but because she was suffering mentally. Referring to the case law pertaining to ending one's life, what the Court took into consideration in this context was the right to respect for private life, guaranteed by Article 8, and the concept of personal autonomy it entails. The right of an individual to decide on how and when his or her life should end is one of the aspects of the right to respect for private life. Decriminalising euthanasia was aimed at offering individuals free choice to avoid what, in their opinion, would be an undignified and unsettling end of life. Human dignity and human freedom are at the very core of the Convention. The Court concluded that, although the right to death could not be derived from Article 2, the right to life contained in this Article could not be interpreted as *per se* prohibition of the conditional decriminalisation of euthanasia. However, in order to be compatible with Article 2, this decriminalisation had to be accompanied by sufficient and appropriate protection measures to prevent abuse and thus provide respect for the right to life. As regarded material positive obligations in the matter, the Court examined the existence of a legislative framework for the procedure prior to euthanasia, which met the conditions set out in Article 2, and whether such procedure was followed in the circumstances of the case. In the opinion of the Court, such a legislative framework has to allow for the patient's freedom and full knowledge in deciding to request to end his or her life. When the legislator has decided against providing an independent prior re-examination of a specific act of euthanasia, the Court is more thorough in considering the question of material and procedural protection measures. Furthermore, the law has to provide stronger measures of protection related to the decision-making process in the cases of patients suffering from mental instead of physical pain, whose death is not expected shortly. For instance, in this case, the Court would give particular importance to the time that should have been allowed between the written request and the act of euthanasia (at least a month according to the Belgian law), to chief physician's duty to consult other doctors (at least two according to the Belgian law), as well as to the demand that different doctors who are consulted have to be independent. In the opinion of the Court, the positive obligations arising from Article 2 implied that the prerequired independence of the consulted doctors referred not only to the lack of any hierarchical or institutional relations, but also to the formal and practical independence, in terms of the consulted doctors' mutual relations and their relations with the patient. In this case, the Court also noticed that the law in question was the subject of several thorough re-examinations, before it was enacted by the National Council and also later by the Constitutional Court. The Court concluded that the given legal framework had provided protection of the patient's right to life, as demanded by Article 2, and that euthanasia had been carried out in accordance with that framework.

However, as regards the procedural aspect of Article 2, violation was ascertained as the doctor who had performed euthanasia was allowed to vote on its legality. The Court explained that the request for an efficient official inquiry also applied to the cases in which the performed act of euthanasia was the subject of a criminal complaint filed by a relative of the deceased, convincingly pointing out the presence of suspicious circumstances. When it comes to the need for a criminal investigation in the cases of euthanasia, the Court considered that this was generally not necessary when death had resulted from euthanasia carried out in accordance with the legislation allowing for such an act and imposing strict requirements on it. However, competent authorities would have to open an investigation to allow for the facts to be established and, if needed, for responsible persons to be identified and punished if there is a criminal complaint from a relative of the deceased indicating suspicious circumstances, as

there was in this case. In the opinion of the Court, where there was no prior but only subsequent re-examination of euthanasia, this re-examination had to be carried out in a particularly rigorous manner so as to fulfil the obligations stipulated by Article 2 of the Convention. The obligation of independence is of the highest importance. In this specific case, the Court analysed subsequent re-examination by the body responsible for monitoring compliance with the procedure and with the conditions set by the Law on euthanasia. The Court observed that the law did not prevent the doctor who performed euthanasia from being part of this body and voting on whether his own acts were compatible with the material and procedural demands of the national law. The Court considered that leaving abstention from voting exclusively to the personal discretion of the member involved in the discussed case of euthanasia could not be regarded as sufficient to provide the independence of the body. Considering the crucial role played by the re-examination body, the re-examination system did not warrant its independence, notwithstanding the real impact the doctor might have had on the body's conclusions in this case.

Conclusion

The right to life is a universal right of an individual, incorporated into and guaranteed by a series of documents enacted regionally and internationally, but answering the question of whether the right to life can be considered absolutely or only partly protected requires analyses of all relevant international agreements on human rights. After this analysis, we can conclude that the ECtHR regards this right as a core human right that cannot be derogated, but that the right is not absolute and that instead merely some aspects of the right to life enjoy absolute protection. The fact that today views are different of the right of an individual, as an intellectual-moral being, to self-determination, dignity, and free development indicates that the state and society should take those measures that aim at achieving this right and provide protection from any potential abuse. So, for instance, as regards assisting suicide, the legislator's role is to provide protection in accordance with Article 23 of the Constitution of the Republic of Serbia, which includes the protection of the right to self-determination in any decision pertaining to one's own life. This entails the arrangement of procedures, the obligation to offer information, the reliability of offered services of assisted suicide, as well as the prohibition of particularly dangerous forms of assisting suicide. The legislator can potentially incriminate any procedure in contravention of those established by the law and stipulate criminal sanctions.

In conclusion, new tendencies in the science of criminal law open up possibilities for re-examining the incriminations that refer to inducement to commit suicide and assisting suicide, at least in one of their aspects, as well as to merciful deprivation of life.

New tendencies also point out to different interpretations of human rights as regards the relation between a citizen's right to self-determination and the state. The approach is more liberal, and it highlights the decisions of an individual acting of his or her own free will, whereby the right to autonomy of the will is respected. It is interesting to mention that the German Parliament devoted attention to this decision only after 14 months, which is why we do not expect that other authorised law proponents and legislative bodies will tackle the trend readily.

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