



Zurich-Forch, 26 February 2020

A note from DIGNITAS – To live with dignity – To die with dignity

The German Federal Constitutional Court declares void § 217 of the German Criminal Code “geschäftsmässige Förderung der Selbsttötung” (prohibition of repeated and thus professional assistance in suicide) – an important step towards true self-determination and freedom of choice at the end of life; now it’s about the “how”.

The two nonprofit membership associations “DIGNITAS – To live with dignity – To die with dignity” in Switzerland and “DIGNITAS - Menschenwürdig leben - Menschenwürdig sterben (Sektion Deutschland) e.V.” in Germany highly welcome the decision of the German Federal Constitutional Court of 26 February 2020, according to which § 217 StGB (German Criminal Code) is declared void. With this judgment, repeated and thus professional assistance in suicide is no longer prohibited in Germany. The decision also shows the way forward for the German Minister of Health, Jens Spahn, who, in violation of the constitution (Basic Law of Germany), continues to refuse to implement the decision by the Federal Administrative Court of March 2, 2017 “Permission to acquire a lethal dose of sodium pentobarbital for suicide”¹. With this, the German government obstructs self-determination and genuine freedom of choice, prolongs suffering and encourages risky suicide attempts.

With today's ruling, the Federal Constitutional Court in Karlsruhe has recognised the right to end one's own life as a human right. In its judgement pronounced on Wednesday, 26 February 2020, it declares void § 217 of the German Criminal Code – “geschäftsmässige Förderung der Selbsttötung” (prohibition of repeated and thus professional assistance in suicide) - enforced on 10 December 2015. Thus, the legal situation that was in compliance with human rights before 10 December 2015 has been restored. The “Bundestag” is now called upon to respect this and the earlier decision of the Federal Administrative Court so that citizens have access to effective means for dying and can exercise their (human) right to decide themselves on the time and manner of their own end in life. This right had already been confirmed by the European Court of Human Rights in 2011², but is still being disregarded in Germany.

¹ Federal Administrative Court of Germany BVerwG, judgment of 2 March 2017 - 3 C 19.15; <https://www.bverwg.de/020317U3C19.15.0> , see also: <http://www.dignitas.ch/images/stories/pdf/medienmitteilung-08032017.pdf>

² http://www.dignitas.ch/index.php?option=com_content&view=article&id=56&Itemid=90&lang=en , see also: <http://hudoc.echr.coe.int/eng?i=001-102940>

With this Constitutional Court judgment, the paternalistic legislation, in force since 10 December 2015, depriving German citizens of their freedom of choice at the end of life has been declared void. However, this should not hide the fact that German Federal Health Minister Jens Spahn still denies severely suffering people access to the safe and best lethal medication, which is sodium pentobarbital. In a misanthropic manner Spahn is ignoring a clear ruling of the Federal Administrative Court in Leipzig; this is a testimony to a rather bizarre understanding of democracy and a strange notion of the rule of law and of the maturity of the citizens of Germany.

The ban on suicide assistance, as it had been in force in Germany for more than four years, created more uncertainty than safety, especially among medical doctors, without solving a single problem. Quite the contrary was the case: denying a person the possibility to end his or her suffering and life in a safe way and professionally supported increases the risk of a lonely suicide attempt with means that usually do not lead to death. This has devastating consequences both for the person concerned and for close ones. True self-determination and freedom of choice at the end of life means having all options available. Genuine self-determination and freedom of choice at the end of life means that a person has access to all options and that he or she can make use of them in a safe setting and with professional support. With his refusal to implement the binding decision of the Federal Administrative Court, Health Minister Jens Spahn is patronising self-responsible citizens, depriving them of a right that they can only exercise, if at all, by resorting to risky suicide methods or by going the often arduous route to DIGNITAS in Switzerland at considerable effort.

The plaintiffs in Karlsruhe were the two nonprofit membership associations “DIGNITAS – Menschenwürdig leben – Menschenwürdig sterben” in Switzerland and “DIGNITAS – Menschenwürdig leben – Menschenwürdig sterben (Sektion Deutschland) e.V”. in Hanover, Germany, as well as several individuals who were affected by the ban on assisted suicide in their professional or private lives. Both DIGNITAS-associations, together with the “Deutsche Gesellschaft für Humanes Sterben” (DGHS; German Society for Humane Dying), will comment on the details of the court decision on Monday, 2 March 2020, 10:00 a.m., in the “Haus der Bundespressekonferenz” (House of the Federal Press Conference) in Berlin.

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BACKGROUND:

DIGNITAS – To live with dignity – To die with dignity was founded in May 1998 with the aim, through international legal and political work, to make the proven Swiss model of freedom of choice, self-determination and personal responsibility in life and at life’s end also accessible to individuals abroad.

DIGNITAS’ advisory concept – combining palliative care, suicide attempt prevention, advance directives/decisions and assisted dying – offers a basis for good decision-making to shape life until the end.

Through litigation, DIGNITAS obtained a judgment of the European Court of Human Rights in 2011 acknowledging the right/freedom of a competent individual to decide on the manner and time of his or her own end in life and confirming this to be protected by Article 8 of the European Convention on Human Rights.

DIGNITAS has been engaged in many lawsuits in Europe and Canada, and has provided in-depth submissions and received visits by expert and parliamentary committees from Great Britain, Australia, Canada, etc. when laws were discussed and planned for the protection of a patient’s autonomy and human dignity.

The founder of the charitable DIGNITAS organisation is Ludwig A. Minelli, an attorney-at-law specialising in human rights. The team of DIGNITAS consists of 28 part-time employees and it is supported by several external experts in the fields of medicine, law, IT and auditing.

DIGNITAS – Menschenwürdig leben – Menschenwürdig sterben (Sektion Deutschland) e.V. was founded in 2005 as an independent membership association with the purpose of enforcing the right to self-determination regarding one’s own end in life, as confirmed by the European Court of Human Rights, in Germany.