



GOVERNMENT
OF MALTA

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PUBLIC CONSULTATION

ON ASSISTED VOLUNTARY EUTHANASIA

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Introduction

In its electoral manifesto, the Government promised a national discussion on assisted voluntary euthanasia for individuals with terminal illnesses. The time has come for this discussion to take place.

To this end, the Government is publishing a document that will serve as the basis for this national discussion.

This Public Consultation establishes certain principles as a foundation for this debate. At this stage, the most important thing is that everyone can voice their opinion on this sensitive topic, which naturally evokes strong emotions.

The electoral pledge states that:

654: *We guarantee that everyone will receive the best possible care until the final moments of life. Despite this unconditional commitment, we are aware of the harsh reality and suffering experienced by patients with terminal illnesses. While we will continue investing in the provision of the highest quality palliative care and support services for patients and their families, we believe that the time has come for a mature national discussion on the introduction of **voluntary euthanasia for individuals with terminal illnesses**.*

Euthanasia in Malta

The word euthanasia is of Greek origin and means "good death."

Although the topic of euthanasia has been discussed in Malta for many years, assisting another person in ending their life—whether directly or indirectly—has always been and remains a criminal offense.

In 2016, euthanasia was also debated by the Parliamentary Committee for Family Affairs and the Parliamentary Committee for Social Affairs.

One may ask: what is different this time?

The difference is that this is the first time that the Government of the day has a mandate to initiate this discussion and chart the way forward on this issue.

Discussing voluntary euthanasia does not in any way diminish the importance of the State and medical services continuing to promote and invest in strengthening palliative care, both in hospitals and through entities such as Hospice Malta.

This is being done in line with the commitments outlined in proposals 512, 513, and 514 of the electoral manifesto *Malta Flimkien*, as well as the palliative care strategy currently being implemented by the Ministry of Health.

Euthanasia around the world

Voluntary assisted euthanasia is legal in several developed and advanced countries, including Australia, Canada, the United States, New Zealand, Belgium, Luxembourg, the Netherlands, Spain, Portugal, and Switzerland. Additionally, a legislative process is currently underway in the United Kingdom.

Laws on voluntary assisted euthanasia vary significantly, both in terms of the eligibility criteria for individuals who can access it and the safeguards in place to prevent abuse while fully respecting the dignity and rights of patients.

Each country has its own socio-cultural context. While the Government has analysed the best and most ethical international practices, we recognise that every nation must develop a model that suits its unique circumstances. The same applies to our country.

Criteria, safeguards, and procedures

This document presents a few principles and safeguards that provide a serious framework for the discussion that must take place regarding the model that our country should possibly consider, should it decide to introduce voluntary assisted euthanasia for individuals with terminal illnesses, under a framework of serious regulation.

The following criteria, safeguards, and procedures are proposed as a basis for the discussion:

Criteria

- Voluntary assisted euthanasia can **only** take place with the expressed, free, and documented will of the individual suffering from a terminal and irreversible illness.
- The medical team assisting the patients must never, at any time, propose voluntary assisted euthanasia to the patient. Instead, the individual's free choice must be respected after they have been given all possible support and a full explanation of the available palliative care and medical treatment options to alleviate suffering.
- Voluntary assisted euthanasia should **only** be available to patients with a terminal illness who are **18 years or older** and have been **officially residing in Malta** for at least 12 months.
- To be eligible, a specialist in the medical field related to the patient's illness must certify that the medical condition is irreversible and terminal, with the patient not reasonably expected to live beyond **six months**.
- **Two additional certificates** from different medical professionals will be required, both of whom must separately examine the patient. One of these must be a **psychiatrist** who certifies that the individual has the **mental capacity** to make their own decision.
- Family members and relatives cannot, **under any circumstances**, make the decision on behalf of the patient.
- Patients have the **right to change their mind** and withdraw from their original decision at any time.
- Any person who exerts **pressure** on the patient to choose voluntary euthanasia will be guilty of a **criminal offense** punishable by effective imprisonment.

Safeguards

- Patients with curable illnesses do not qualify for voluntary assisted euthanasia.
- A person will not be considered to have a terminal illness if they have one or more of the following conditions or characteristics:
 1. Mental health conditions
 2. Disability
 3. Medical conditions commonly associated with old age, such as dementia

Procedures

- A **Regulatory Board** should be established within the Ministry of Health, serving as the regulator to ensure that all procedures are followed in accordance with the law and established practices.
- To initiate the process, the patient must **meet the criteria** outlined above. Using a prescribed form, the specialist in the medical field related to the patient's illness must submit the request to the Board, along with the necessary documentation.
- The Board is **obliged** to speak with the patient, and in cases of mobility difficulties, visit the patient to allow them to confirm their decision in writing to the Board. This should be done **no sooner than one week** after the Board receives the request, to give the **patient time for reflection**.
- The Board is obliged to make a final decision on each case **not later than two weeks** after receiving the patient's request.
- Once approval is granted by the Board, the final procedure for voluntary assisted euthanasia should take place according to the **patient's choice**.
- The patient has the right to decide whether their relatives should be informed of their request and when the final procedure will take place, as well as whether they wish for them to be present during the procedure.
- The final procedure for voluntary assisted euthanasia should be carried out with the utmost empathy and **full respect for the dignity** of the individual. It should take place in a designated area within a government hospital in Malta or at the patient's private residence, according to their wishes. However, it must always be performed in the presence of a medical professional.

- A medical professional must assist the patient in following the procedure of voluntary euthanasia. It must be the **patient themselves** who carries out the final procedure that leads to the end of their life. In cases of physical health limitations, the patient may delegate this task in writing through a *health proxy* to a trusted person.
- Any equipment and/or prescribed medication required to fulfil the patient's wish for assisted voluntary euthanasia must be provided by the pharmacy of governmental hospitals as part of the national health service.
- The medical professional assisting the patient in the final moments must personally ensure that any unused equipment and medication are returned to the governmental hospital pharmacy within 24 hours.
- The patient **has the right, up until the last moment, to change their mind, even with a simple verbal statement.**

Definition of a terminal illness

By “**terminal illness**” we mean:

- i. the terminal stage of a progressive illness or medical condition that will lead to the end of the person’s life and which, in no way, can be cured or overcome; and
- ii. because of that illness or progressive medical condition, a medical professional can reasonably conclude that the life expectancy of that person does not exceed a period of six months.

The role of the medical profession

Members of the medical profession who have a conscientious objection have the right not to participate in the process that leads to assisted voluntary euthanasia if a patient under their care requests it. However, the medical professional remains obliged to respect the patient’s wishes, and for this purpose, the patient should be referred to other professionals.

Medical professionals who choose to assist the patient in this process should be protected from legal action, both criminal and civil

Medical and legal background

It is a universally accepted principle, including in Malta, that a patient is not breaking any law if they consciously refuse medical care and treatment, with all the consequences such a decision entails.

A law recognising a patient’s right to assisted voluntary euthanasia would mean that such an act would no longer be considered a criminal offence, provided it is carried out in full compliance with the established procedures and relevant legal safeguards.

The regulatory board

The Regulatory Board, previously mentioned in this Public Consultation, shall be appointed by the Ministry for Health and composed of a chairperson who is a retired judge, along with at least two medical professionals and one legal expert. Substitute members should also be appointed to ensure the Board continues to function efficiently and promptly, even in cases where members recuse themselves.

The Board shall be supported by a secretary and provided with all necessary resources to function effectively.

The Board is to serve as a regulator, with ongoing oversight to ensure that all procedures are properly followed. Its role should not be a mere formality in the process.

The Board should take an active role, which includes carrying out necessary verifications and taking any actions it deems appropriate to ensure compliance with the procedures, including summoning the professionals involved.

In addition to following each case from the very beginning when a patient requests assisted voluntary euthanasia, the Board is also responsible for collecting and publishing annual statistics on the matter. This includes information on euthanasia requests that were carried out, interrupted, or rejected.

The Ministry for Health shall establish a protocol for the functioning of this Board and ensure it has access to all relevant information, including medical opinions and certificates issued by professionals, as well as the medical records of patients who request assisted voluntary euthanasia.

It must be ensured that a continuous audit-trail is maintained for each case.

The Regulatory Board shall have the responsibility to inform the relevant authorities if any attempts of abuse or undue pressure on patients come to its attention during the process.

The termination of life through assisted voluntary euthanasia shall be considered a natural death, provided that the Board has verified and certified that all legal procedures have been duly followed.

The medical will

The Government's aim is for our country to have a robust legislative framework which, while offering the best possible care and granting new rights to patients, does so in full respect of life and human dignity.

Therefore, this Public Consultation is proposing to broaden the discussion so that Malta may introduce the possibility for individuals, through their own free choice and while still in good health, to create a medical will (living will). In this document, they may declare what level of medical care and treatment they would or would not want if they were to fall seriously ill or suffer trauma due to serious accidents.

The significant advances in medical science have made it possible to prolong life. This is often achieved through extraordinary treatments, even in cases where the medical condition may be irreversible.

For some, such treatments do not lead to a decent quality of life and may therefore be considered unacceptable.

Hence, through advanced and informed medical directives, a person would be able to plan for situations that may affect their health at any point in life.

An individual who chooses to make a medical will, or what is commonly known as a living will, must possess full mental capacity and must have consulted and received expert advice from a trusted medical professional.

A living will should indicate whether the individual wishes to receive palliative care and whether they are willing to donate their organs at the end of their life for use by patients in need.

The individual always has the right to amend, update, or even revoke their medical will, either by drafting a new one or by communicating their wishes through any other means directly to the medical team providing their care.

It is important to note that the medical will and voluntary assisted euthanasia are two distinct matters. A medical will alone does not entitle a patient to access voluntary assisted euthanasia unless all the eligibility criteria outlined in this Public Consultation are fully met.

The point at which these two areas intersect is in the case of terminally ill patients, who meet the eligibility criteria set out earlier, yet are no longer in a physical or mental state to express their wishes. If such individuals had previously made a medical will while they were physically and mentally fit to do so, then that will may be considered, unless the patient, by any means, expresses a wish to continue living.

Conclusion

This document is being presented for mature discussion on these topics, and it is intended to serve as a foundation for public consultation.

Several principles, criteria, and safeguards are being proposed for discussion, all of which are based on those defined in the Government's electoral program.

The goal is to ensure that such a sensitive subject is addressed within a framework, so that if our country legislates on this matter, it does so in a well-considered and legally robust manner.

The public consultation will remain open for a period of eight weeks.

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