

Colombia (2015-)

It should be noted that at no time has the Congress passed a law permitting euthanasia. It is only carried out in Colombia pursuant to judgements of the Constitutional Court and subsequent Resolutions of the Department of Health and Social Protection.

Numbers killed

Between April 2015 and 31 October 2022, 323 people were killed by euthanasia in Colombia – with numbers increasing each year (except 2020) – 4 in 2015; 7 in 2016; 17 in 2017; 24 in 2018; 43 in 2019; 34 in 2020; 95 in 2021; 99 in January-October 2022 ¹

Court ordered euthanasia

On 20 May 1997 the Constitutional Court of Colombia [ruled](#) that, subject to certain conditions, if a physician responded to a voluntary request from a terminally ill patient for an act of mercy killing in order to end great suffering that cannot otherwise be relieved, then constitutionally this cannot be a criminal act.²

The Court called on the Congress to pass a law “in the shortest possible time” to provide detailed regulations for euthanasia.

The Congress has repeatedly declined to do so.

However, on 15 December 2014 the Constitutional Court in another case [ordered](#) the Ministry of Health to issue a regulation on euthanasia.³

On 8 April 2021, the Chamber of Representatives again voted against progressing a bill to regulate euthanasia.

On 22 July 2021 a further decision of the Constitutional Court, decided by 6-3, removed the requirement for a terminal illness in allowing a physician to respond to a request for an act of euthanasia. The Court made its sixth call for the legislature to pass a law regulating access to euthanasia.

On 16 November 2021, a Bill to regulate euthanasia was [again rejected](#) by the Chamber of Representatives by a vote of 78-65.⁴

On 11 May 2022 the Constitutional Court, in a 6-3 decision, also legalised physician assisted suicide for any person diagnosed with a serious or incurable disease or bodily injury who claims to suffer from intense physical or psychological pain that is incompatible with the person’s idea of a dignified life.⁵

¹ https://www.desclab.com/files/ugd/e0e620_6a4d002443244417a5552c762e40c785.pdf

² <https://euthanasia.procon.org/sourcefiles/colombia-court-decision-05-20-1997.pdf>

³ <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/INEC/IGUB/Sentencia-T-970-14.pdf>

⁴ <https://www.camara.gov.co/se-hunde-reglamentacion-de-derecho-a-morir-dignamente>

⁵ <https://colombiareports.com/colombia-legalizes-assisted-suicide-in-historic-ruling/>

Euthanasia by executive resolution

The Department of Health and Social Protection issued [Resolution 1216 of 2015](#) on 20 April 2015⁶ providing [detailed rules for euthanasia](#).⁷

These rules were updated by [Resolution 971 of 2021](#).⁸

The Resolution allows the conscientious objection of the health professional, but does not allow an objection of institutional conscience. "If a doctor does not want to do the procedure because of his personal convictions, that is classified as an objection of conscience and that is respected by the norm. In that case, the institution must find another doctor who performs the procedure".

The Resolution also gives effect to the ruling of the Court permitting requests for euthanasia to be made by advanced directive, even those made before a person has a terminal illness, as well as to be made by a "substituted judgement"

"In relation to the consent it was specified that, according to the moment in which it is expressed, it may be prior or subsequent. The **prior** consent is issued before suffering the terminal illness and the **later** when the will to exercise the right to a dignified death is manifested after the pathological event has occurred. Likewise, the **substitute consent** was foreseen, which proceeds in the events in which the patient suffering from the terminal illness is in fact unable to express his will. In these events, **the family may substitute the consent** and the same procedure will be carried out, but the interdisciplinary committee must be stricter in complying with the requirements."

Euthanasia of children

On 25 August 2017 another [ruling](#) from the Constitutional Court instructed the Department of Health and Social Protection to issue regulations for the euthanasia of children.⁹

On 9 March 2018 the Department issued [Resolution 825 of 2018](#) which allows the euthanasia of children as young as 7 years old who have an incurable disease with a prognosis of less than 6 months to live and with pain that cannot be otherwise relieved. The case must be considered by a committee of a doctor, a lawyer and a psychiatrist. Up to 12 years of age the consent of both parents, as well as the child, is required. From 12 to 14 years the consent of only one parent and of the child is required and from 14 years onwards only the consent of the child is required.

However, as of 31 October 2022 no euthanasia of children has taken place.

It is disturbing to note that the case that led to this expansion of euthanasia to include children, involved a 13 year old intellectually disabled boy with cerebral palsy whose suffering from scoliosis and from repeated instances of respiratory difficulty stemmed from significant failures of the health service to deliver needed treatments including oxygen supplies as well as orthopaedic treatments and a suitable wheelchair.

By the time the ruling was issued the boy had died following a severe incident. He received palliative care at this time to relieve his distress.

⁶ https://www.minsalud.gov.co/Normatividad_Nuevo/Resoluci%C3%B3n%201216%20de%202015.pdf

⁷ <https://www.minsalud.gov.co/Paginas/MinSalud-cumple-mandato-de-la-Corte-sobre-muerte-digna-en-Colombia.aspx>

⁸ https://www.minsalud.gov.co/Normatividad_Nuevo/Resoluci%C3%B3n%20971%20de%202021.pdf

⁹ <https://colombiareports.com/colombia-legalizes-assisted-suicide-in-historic-ruling/>

The Court ruling proposes that substituted consent to euthanasia of a child lacking the required cognitive development can be supplied by the “parents, persons or entities that are legally in charge” of the child.

The voice of reason

In the [2017 case](#) there was a significant dissent by Judge Cristina Pardo Schlesinger.¹⁰

She pointed out that at the argument for euthanasia assumes that ‘there are conditions in which life stops being worthy to live’. To the contrary Judge Schlesinger asserted that “In fact, life is not a simple operation among many, but consists in the very being of the living person. Losing life, for a living being is losing his own being. Consequently, from the affirmation that there is an unworthy life there necessarily follows the affirmation that the person who suffers from certain conditions is *unworthy*. The idea that life can be “unworthy” in a proper sense and not metaphorically, is inevitably linked to the idea of the inferiority in legal status of the most vulnerable members of society, a thesis that is, obviously, contrary to the spirit of the Constitution.

“The terminally ill person is “authorized” to die, not because their autonomy is respected (as sometimes they try to present) but because in some way, their life is considered “less”. “

“The reason why it is not possible to understand that euthanasia is licit by virtue of being directed at the mitigation of suffering consists fundamentally in the fact that such action is naturally directed to the termination of life. Contrary to actions such as sedating or anesthetizing, whose first and most direct effect is the alteration of the sensation, or the change in the functioning of an organ, euthanasia is distinguished by being directly directed to suppress life. This direct orientation to end life is not distinguishable from the orientation to eliminate the person who lives. Now, whenever the person and dignity are inseparable, any action that eliminates the subject of law is an action that attempts to suppress a worthy subject, that is, an attack on dignity. And, inevitably, an attempt against a worthy being is an attempt against dignity.”

The assertion of a right to dispose of one’s life “seems to ignore one of the founding statements of the liberal tradition of human rights, that is, the existence of inalienable rights. The liberal tradition, in fact, has always maintained the existence of a fundamental difference between those who are the subjects of rights and the objects of law. The latter form the orbit of goods and on them the acts of disposition and trade are exercised. On the other hand, the subject of law cannot dispose of his own subjectivity without reifying himself. For this reason, all the authors representative of the liberal tradition that gave rise to the modern rule of law denied the possibility of a legal business whose purpose is the transfer of one's own legal subjectivity, as it would be, the sale of one's being to be a slave. This premise remains incontestable. Nobody doubts the current illegitimacy of the slavery pact. Not even full availability regarding labor rights is allowed. Nor would the legitimacy of a document accepting torture in a judicial interrogation be accepted. But when it comes to the life of the subject in terminal conditions we strangely accept a much more extreme act in all aspects.”

Judge Schlesinger goes on to address the reality that depression in the terminally ill is very likely going to affect decision making casting doubts of the competence of the person to make such a profound and final decision:

“It turns out, however, that consent to euthanasia is usually given in circumstances that, by definition, hinder the freedom of consent. It should not be forgotten that in many of these cases the decision is made in conditions of psychic alteration, in the midst of depressive states concomitant

¹⁰ <http://www.corteconstitucional.gov.co/relatoria/2017/t-544-17.htm>

with the illness, of feelings of uselessness or self-perception of being burdensome, as well as of physical pain, family embarrassment and, in some cases, economic concern. If practically all consent to euthanasia occurs in these special circumstances that reduce the freedom of the act, it is concluded that, paradoxically, **a weak and questionable consent is enough for the most extreme and irreversible of possible decisions**. Circumstances that in other contexts would suffice to invalidate a will, contract or marriage are inexplicably irrelevant in deciding on one's own death.

“Special consideration is required regarding the interference of depressed mood in the request for assisted suicide. Indeed, it is common knowledge that certain diseases trigger depressive processes and that those who suffer from these disorders present within their clinical picture inclinations and suicidal desires. Precisely for this reason, the "consent" associated with such a request must be considered, by definition, spurious.”

Judge Schlesinger goes on to object to the idea that the law on such a serious matter can be made without the action of Congress and that consequently the orders of the Court are “are issued without regard to the constitutional powers of the other branches of public power, without sufficient democratic legitimacy and in total disrespect for the principle of separation of powers”.

She also objected strongly to the arrogant claim of the Court that institutions – including those founded on a religious ethos that prohibits euthanasia – must provide it.

Finally, commenting on the case of the 13 year old boy she concluded that all the considerations outlined above applied even more so “since he is a 13-year-old boy who suffered from severe cerebral palsy whose parents requested euthanasia due to *“the delay in providing the services and supplies necessary to treat the diseases that it suffers”*. That is, the request for euthanasia was based on a situation of despair on the part of the parents, who because of the negligence of the Health Service were seeing the suffering of their son, decided that the best goal was his death. Therefore, I believe that in this context, it cannot be affirmed that the decision to request euthanasia was carried out in a totally free manner, much less in observance of the dignity of the child.”

Conclusion

This dissent by Judge Schlesinger is an eloquent condemnation of the arrogance of the court ordered experiment with euthanasia in Colombia.