

Assisted Suicide in Austria – the new legal framework

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ABSTRACT: In 2020 the Austrian Constitutional Court repealed a legal provision prohibiting assisted suicide. This essay deals with the Court's decision and its consequences and focuses particularly on the new regulation on assisted suicide that entered into force in January 2022.

KEYWORDS: assisted suicide; end of life; human rights; killing on request; self-determination

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1. Introduction

In December 2020 the Austrian Verfassungsgerichtshof (Constitutional Court) had to deal with legal questions concerning the end of life. It was not the first time that the Court was approached with such questions, it was, however, the first time that its decision had such serious consequences: it forced the legislator to revise the regulations on assisted suicide. These amendments entered into force on January 1st 2022¹ and give reason to focus on this issue.

2. Legal situation before 2022

Before 2022, Austria had a very strict regulation concerning self-determined death. According to § 78 Strafgesetzbuch (Criminal Code) it was forbidden to assist in suicide. Assistance was understood to have a very broad meaning: Even accompanying a suicidal person to Switzerland or buying a train ticket was included and thus forbidden under penal law. Besides assistance in suicide the Criminal Code also forbids to induce somebody to commit suicide (§ 78 Strafgesetzbuch) and to kill someone on request (§ 77 Strafgesetzbuch).

Already in 2016 there were efforts to get the Constitutional Court to review whether these laws comply with the constitution,² in particular with the fundamental rights. Several persons wanted to found an

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¹ BGBl I 2021/242.

² In literature the absolute prohibition of assisted suicide has long been criticized: E. BERNAT, *Dem Leben ein Ende setzen: Selbstmord und aktive Teilnahme am Suizid – eine rechtsethische Überlegungsskizze*, in ÖJZ, 2002, 92; A.

association for assisted suicide services. The authorities prohibited the foundation because these activities were forbidden under penal law. The applicants applied to the Constitutional Court which, however, did not initiate the proceeding to review the law. It simply asserted that the laws were constitutional because the European Court of Human Rights had pronounced that in questions concerning the end of life the member states have a wide margin of appreciation.³

3. The Constitutional Court's decision in 2020

3.1. Procedural aspects

The efforts for a constitutional review of the legal situation, however, went on. It was in 2020 when the Constitutional Court had to decide upon requests to review the law (VfGH 11.12.2020, G 139/2019). Several persons had applied for a repeal of the laws forbidding self-determined death. The applicants were a doctor, two terminally ill persons and one healthy person. The first interesting question was whether they were all entitled to seize the Court. One of the procedural conditions is that the contested provisions legally affect the applicant. Especially considering the healthy person it was doubtful whether this requirement was met. The Court, however, took a very unusual broad approach: Even though the individual situations of the applicants differed, they were all affected by the law and therefore entitled to file an application.

3.2. The (new) right to self-determination

The examination of the merits came along with a bolt from the blue. It was expected that the Constitutional Court would review the law in the light of Art 8 ECHR⁴ and Art 7 Bundes-Verfassungsgesetz (Austrian Constitution). The Court took a different and unforeseeable path: It considered several fundamental rights, among them Art 8 ECHR (Right to Respect for Private Life), Art 2 ECHR (Right to Life) and Art 7 Bundes-Verfassungsgesetz (Principle of Equality). It then stated that all these rights involve aspects of self-determination and therefore a new fundamental right can be derived: the right to self-determination.

This derivation is quite spectacular: Although Art 8 ECHR already guarantees a right to self-determination the Court does not solely refer to that. It rather gives birth to a new and autonomous fundamental right. This comes along with a key question: what is the scope of protection? In the first instance it is quite broad because the Court creates a general right to self-determination which protects the decision of how a person wants to lead his/her life. However, the Court does not develop this approach any further but concentrates on one specific aspect of this right: the right to self-determined death.

BIRKBAUER, *Die Kriminalisierung des assistierten Suizids (§ 78 StGB). Eine (un)notwendige Strafbestimmung zum Schutz des Lebens?*, in *RdM*, 2016, 84 ff; C. KOPETZKI, *Für eine Reform des Straftatbestands der Suizidbeihilfe (§ 78 StGB)*, in *RdM*, 2016, 81; E.C. SCHÖPFER, *Überlegungen zum Verbot des assistierten Suizids in Österreich aus ethischer und menschenrechtlicher Sicht*, in *NLMR*, 2016, 309

³ VfSlg 20.056/2016. This decision was criticized, see B. KNEIHS, *Verstoß gegen die Strafgesetze (§ 78 StGB) durch Vereinszweck der Hilfe für selbstbestimmtes Sterben*, in *RdM*, 2016, 108.

⁴ According to the ECHR it protects the right to self-determined death: ECHR 29.4.2002, 2346/02 *Pretty*; 20.1.2011, 31 322/07 *Haas*; 19.7.2012, 97/09 *Koch*; 14.5.2013, 6581/10 *Gross*.

This right protects the decision whether and for what reasons a person wants to end her life and whether they want to ask another person for help. In its considerations, the Court repeatedly refers to human dignity, which is very unusual. Unlike for example the German Constitution the Austrian Constitution does not explicitly guarantee human dignity and therefore the Court usually restrains itself from using this term. It remains unclear why the Court now recurs on human dignity.⁵ A closer examination shows that the term “dignity” is used as an equal to “autonomy”, so there is no obvious added value. It is, however, plausible that the Court intends to make clear that self-determined death is closely connected to the core of a human-being which is human dignity.

In sum, the newly created right to self-determination is the (new) yardstick for measuring the contested provisions.

3.3. Prohibition of assisted suicide

First of all, the Court examines whether the prohibition of assisted suicide (§ 78 Strafgesetzbuch) is in accordance with the right to self-determination. It is obvious that the rule is an interference with this right. Therefore, the main question is whether this can be justified.

Until recently, it was mainly two arguments that were put forward for the prohibition of assisted suicide. Firstly, it was said that such bans were necessary to protect life. Quite rightly however, this argument did not convince the Court: If one accepts that the individual has a right to decide autonomously whether to live or to die, it would be quite contradictory to protect them of one of these two options. In addition to that, there is another important aspect which the Court points out: The prohibition of assisted suicide might not even reach this aim. On the contrary: the individual might be forced to end life earlier because they might fear that at a later stage they will not be able to end life without assistance.

Secondly, it is very often said that prohibition of assisted suicide is necessary to protect people’s autonomy, as it can be very difficult to ascertain that a decision to commit suicide is really based upon the free will of a person. The Constitutional Court does acknowledge these difficulties, and states that vulnerable persons have to be protected. However, it also emphasizes that these difficulties do not justify a complete ban of assisted suicide and therefore, a complete denial of the right to self-determination. In fact, there are less severe measures to make sure that a decision to end life was taken autonomously.

In this context the Court emphasizes that the right to self-determination can only be claimed by persons who are able to form a free and self-determined will. This pleonasm leads to the crucial question: what is individual autonomy? How can it be secured that a decision to commit suicide is based upon the free and autonomous will of a person? Although it is impossible to gain absolute certainty, the Court points out that there are indicators of a free will. First of all, the decision must be based upon an

⁵ It is quite obvious that in the reasons there are many parallels to the latest decision of the Bundesverfassungsgericht (German Constitutional Court) on assisted suicide (BVerfG 26.2.2020, 2 BvR 2347/15) although the Austrian Court does not expressly refer to that. For these parallels see L. KHAKZADEH, *Das Recht auf selbstbestimmtes Sterben. Verfassungsrechtliche Überlegungen zu VfGH 11.12.2020, G 139/2019*, in *RdM*, 2021, 48 (53). These parallels in the reasons were unexpected because the relevant legal basis in Austria and Germany are not quite comparable.

informed consent: Only when one knows about all circumstances, consequences and alternatives of a situation one can take a free and self-determined decision. Furthermore, the decision taken needs to be durable. It must be made sure that the decision to die is not preliminary, given its irreversible character. Finally, assisting person needs to be sure that the suicidal person has made the decision autonomously.

Then the Court points out another interesting aspect: Everyone is influenced by social and economic circumstances they live in. They affect basically all our decisions in life including, and in particular the wish to die: If one fears to endure pain or to be a burden to other people this can certainly affect a suicidal decision. However, the social and economic circumstances are not the same for everyone and of course, it is impossible (and undesirable) to make them equal. There is, however, one important factor that – and the Court is very clear in that – can be made equal for all: Everyone must have access to palliative care. This is quite an important statement because we know that palliative care is an important factor when people think about their end of life. Nevertheless, by the end of 2019 Austria only had a capacity of 365 beds for palliative care.⁶ All these requirements that the Court lays down can be seen as positive obligations that are derived from the right to self-determination.

3.4. Prohibition to induce a person to commit suicide

When it comes to examining the prohibition to induce a person to commit suicide (§ 78 Strafgesetzbuch) the Court's reasons are very short. It solely states that none of the constitutional rights brought forward by the applicants were infringed and therefore this prohibition was not declared unconstitutional. A closer examination confirms the Court's conclusion: If a person is induced to commit suicide, then this decision is not based on a free and uninfluenced decision. Therefore, the corresponding prohibition does not fall within the scope of protection of the right to self-determination and the Court did not declare it unconstitutional.

3.5. Prohibition to kill on request

The prohibition to kill on request (§ 77 Strafgesetzbuch)⁷ was not examined in merits because it was held inadmissible.⁸ Nevertheless, the Court commented on aspects of its conformity with the constitution. It stated that the considerations regarding the prohibition of assisted suicide could not be transferred to the prohibition to kill on request because of significant differences between the two. This is certainly true: With assisted suicide, it is always the person wishing to die that sets the last step leading to death. In the case of killing on request however, this last step is taken by the assisting person. Therefore, it is almost impossible to secure the autonomy of the dying person until the very end. This difficulty justifies the interference with the right to self-determination. However, it is conceivable that an ill person is by no means capable of setting the last act that leads to dying. This could very well be

⁶ Datenbericht der spezialisierten Hospiz- und Palliativeinrichtungen, der Bildungsarbeit sowie der Projekte in der Grundversorgung 2019. In addition there were 60 mobile palliative-care-teams.

⁷ § 77 StGB: "Wer einen anderen auf dessen ernstliches und eindringliches Verlangen tötet, ist mit Freiheitsstrafe von sechs Monaten bis zu fünf Jahren zu bestrafen."

⁸ The application was too narrow because repealing the contested provision would not change the applicants' situation: § 77 Strafgesetzbuch is *lex specialis* to § 75 which prohibits murder.

problematic in view of the right to self-determination because these persons would be excluded from exercising their right.⁹

3.6. Open questions

The Court's decision was very much discussed in the legal community¹⁰ as well as in society. One major point of critique is that the dogmatic basis of the reasons given by the Constitutional Court is hardly convincing. It is very difficult to see the need for the creation of a new fundamental right, especially as Art 8 ECHR protects a right to self-determined death and in Austria the ECHR has the status of a constitutional law.¹¹ Moreover, the Court's approach raises a number of open questions, eg concerning the scope of protection of the right. In addition, the court is often not very clear in its statements and sometimes uses quite confusing wording,¹² which additionally complicates interpretation. For the new regulation of assisted suicide, it was mainly three questions that were discussed during the legal process: Who is entitled to ask for help? Who is entitled to help? How can it be made sure, that the decision to die is based upon a free and durable decision?

In this context it is very interesting to see that the reasons of the Constitutional Court show many parallels to the reasoning of the German Bundesverfassungsgericht's decision on assisted suicide.¹³ The cases are however not entirely comparable: In Germany assisted suicide was not completely forbidden; only professional assistance was prohibited. This is a major difference to Austria where every form of assistance was prohibited.

⁹ See L. KHAKZADEH, *Das Recht auf selbstbestimmtes Sterben, Verfassungsrechtliche Überlegungen zu VfGH 11.12.2020, G 139/2019*, in *RdM*, 2021, 48 (53); J.F. LINDNER, *Verfassungswidrigkeit des Verbots aktiver Sterbehilfe?*, in *NStZ*, 2020, 505 (507).

¹⁰ See eg among many others: A. GAMPER, *Gibt es ein „Recht auf ein menschenwürdiges Sterben“? Zum Erkenntnis des VfGH vom 11.12.2020, G 139/2019*, in *JBl*, 2021, 137; L. KHAKZADEH, *Das Recht auf selbstbestimmtes Sterben. Verfassungsrechtliche Überlegungen zu VfGH 11.12.2020, G 139/2019*, in *RdM*, 2021, 48; B. KNEIHS, *Drei Mal Sterbehilfe*, *NLMR*, 2020, 425; M. PÖSCHL, *Sterben mit Würde?*, in *EuGRZ*, 2021, 12; K. SCHMOLLER, *Sterbehilfe und Autonomie – Strafrechtliche Überlegungen zum Erkenntnis des VfGH vom 11.12.2020*, in *JBl*, 2021, 147.

¹¹ ECHR, 29.4.2002, 2346/02 *Pretty*; ECHR 20.1.2011, 31322/07 *Haas*; ECHR 19.7.2012, 97/09 *Koch*; ECHR 14.5.20; ECHR 14.5.2013, 67810/10 *Gross*.

¹² See eg point 104 of the decision: "ein Sterben in der vom Suizidwilligen gewollten Würde". Very often there are also clusters of key words like "autonomy", "dignity", "integrity", see eg point 80: "Da § 78 zweiter Tatbestand StGB die Selbsttötung mit Hilfe eines Dritten ausnahmslos verbietet, kann diese Bestimmung unter Umständen den Einzelnen zu einer menschenwürdigen Form der Selbsttötung veranlassen, wenn er sich kraft freien Entschlusses in einer Situation befindet, die für ihn ein selbstbestimmtes Leben in persönlicher Integrität und Identität und damit in Würde nicht mehr gewährleistet."

¹³ BVerfG 26.2.2020, 2 BvR 2347/15. See the broad discussion in Germany: E. HOVEN, *Für eine freie Entscheidung über den eigenen Tod. Ein Nachruf auf die straflose Suizidbeihilfe*, in *ZIS*, 1, 2016, 1; F. HUFEN, *Selbstbestimmtes Sterben – Das verweigernde Grundrecht*, in *NJW*, 2018, 1524; A. JURGELEIT, *Sterbehilfe in Deutschland*, in *NJW*, 2015, 2708; Rixen, *Suizidale Freiheit? Das Recht auf (assistierte) Selbsttötung im Urteil des Bundesverfassungsgerichts vom 26. Februar 2020*, *BayVBl* 2020, 397; A. SIMON, *Selbstbestimmt bis zuletzt?! Das aktuelle Urteil des Bundesverfassungsgerichts im Kontext der öffentlichen Debatte um die Grenzen der Sterbehilfe*, in *Wege zum Menschsein*, 2020, 475; M. SCHLUND, *Straflosigkeit der geschäftsmäßigen Förderung einer Selbsttötung*, in *NJW Spezial*, 2020, 184.

4. The new regulation

When the Austrian Constitutional Court repeals a legal provision, it can set a date for when the repeal enters into force in order to give the legislator time to adopt a new regulation. Although the Court had conceded more than a year (the repeal entered into force on 1st January 2022), the process of legislation was initiated very late.¹⁴ It was only on 23rd October 2021 that the relevant ministry presented a draft law.¹⁵ Already on 18th November 2021 a government bill was submitted to Parliament and adopted in December 2021.¹⁶ This speedy procedure was highly criticized, especially when taking into account that the topic concerned is very sensitive.¹⁷

4.1. Statute on the will to die (Sterbeverfügungsgesetz)

The core of the new regulation is a newly adopted statute on the will to die (Sterbeverfügungsgesetz) which regulates the procedure for setting up a so-called Sterbeverfügung (“last will to die”) by which a person declares his/her durable, free and self-determined decision to end his/her life.

The last will to die is not open to everyone but only to people suffering from specific diseases: A person must suffer from an incurable illness that leads to death or they must suffer from a severe, durable illness with permanent symptoms that permanently affect their complete life. In both cases, the illness must bring a state of suffering that cannot be averted by other means.¹⁸ In other words: Only persons suffering from – one could say – an enhanced illness are entitled to make use of a last will to die. Furthermore, the person has to be of full age, has to have the capacity to make decisions and has to be an Austrian citizen or have a habitual residence in Austria.

It takes two steps to set up a last will to die. First of all comprehensive medical information (“Aufklärung”)¹⁹ has to be given by two doctors, one of whom must have special qualification in palliative care. In this context the person wishing to die has to be informed about the illness, treatment alternatives, palliative care etc. Furthermore, there must be information about the dosage, usage and effects of sodium pentobarbital (this is drug that then can be obtained with a valid Sterbeverfügung). Should one of the doctors suspect a mental disorder, he/she must engage a psychiatrist or a clinical psychologist.²⁰ It is quite interesting that both doctors do not have to inform about all aspects mentioned; instead, they can split these up according to their field of expertise. However, both have to confirm, that the person is capable to form a free will and has come to the free and self-determined decision to die. At least one of the doctors must confirm, that the person is suffering from an enhanced illness. The medical information must be documented and is valid for a year.

¹⁴ Before initiating the process of legislation a “Dialogforum Sterbehilfe” was established to discuss central questions: <https://www.bmj.gv.at/themen/Dialogforum-Sterbehilfe.html>.

¹⁵ 150/ME 27. GP.

¹⁶ RV 117 BlgNR 27. GP; BGBl I 2021/242.

¹⁷ For statements regarding the draft law see https://www.parlament.gv.at/PAKT/VHG/XXVII/I/I_01177/index.shtml#tab-Stellungnahmen.

¹⁸ § 3 (2) Sterbeverfügungsgesetz.

¹⁹ § 8 Sterbeverfügungsgesetz.

²⁰ § 7 Abs 4 Sterbeverfügungsgesetz.

Only after the medical information has been given, the second step can be taken: the last will to die can be established.²¹ However, a waiting period of at least 12 weeks needs to be respected (starting from the first medical information). For persons suffering from a deadly disease, this period is shortened to only two weeks in case the patient has already reached the terminal phase of the illness. The last will to die can only be established with a public notary or legally qualified members of the “Patientenvertretung” (patient representatives). This person documenting the last will to die (“dokumentierende Person”)²² confirms that the person wishing to end life declared the self-determined will to die and that there are no indications that the decision-making ability of the declaring might be affected. Apart from that, the documenting person confirms formal aspects such as the compliance with the waiting period. The establishment of a last will to die has to be notified to a specific register (Sterbeverfügungsregister) and is valid for a year; however, it can be revoked earlier. A valid last will to die entitles the person to obtain sodium pentobarbital from public pharmacies.²³ The submission of the drug must be entered into the register.

4.2. Amendment of § 78 Strafgesetzbuch

The legislator did not only adopt the new statute on the will to die but also amended § 78 Strafgesetzbuch (Criminal Code). It is still forbidden to induce someone to commit suicide.²⁴ The prohibition of assisting someone to commit suicide was, however, revised. Firstly, assistance is now possible within narrow limits: It covers only physical assistance. Secondly, assistance is forbidden in specific cases only: It is a criminal offence to assist a minor person or to have reprehensible motives; furthermore, it is forbidden to assist a person who is not suffering from an enhanced illness or was not informed by doctors.

5. Assessment of the new regulation

When evaluating the new regulation we can consider the central questions stated at the beginning. First, we can ask whether the procedure of establishing a last will to die secures a person’s autonomy. The medical information suggests this because only a person who is well informed about the situation and possible alternatives can form a self-determined decision. It is, however, doubtful whether this autonomy is sufficiently secured throughout the whole procedure: After the medical information it can take up to a year to establish the last will to die. Even though this is quite a long period, the person documenting the last will to die does not fully check whether the person is able to form a free will but only examines whether there are indications that the decision-making capacity is convincing.²⁵

²¹ § 8 Sterbeverfügungsgesetz.

²² § 3 number 6 Sterbeverfügungsgesetz.

²³ This is allowed due to an amendment of the Suchtmittelgesetz (Narcotic Substances Act).

²⁴ § 78 (1) Strafgesetzbuch.

²⁵ Of course, a public notary would not have the capacity to fully assess the decision-making capacity, so once again a doctor would have to be consulted.

Another important aspect is the permanent character of the decision because no one should commit suicide on a temporary whim. There is no doubt that it is very difficult to secure this because the possibility that a person might change his/her opinion can never be ruled out completely. The new law reduces this problem because only people suffering from an enhanced illness are entitled to establish a last will to die. In these cases one can assume that the permanent illness makes it highly improbable that the person is going to change his/her opinion. One could discuss whether the waiting period of 12 weeks between medical information and last will to die is sufficient to secure the permanent character of the decision. In any case the shortening of the deadline for moribund persons is appropriate.

The question who should be allowed to assist suicide was much disputed.²⁶ The new law took quite a broad approach: In general, everyone (who is of full age²⁷) is allowed to assist. There is, however, one restriction: The assisting person is not allowed to take (promises for) economic benefits from the dying person.²⁸ In addition, there is a prohibition of advertising for assisted suicide services. The administrative fines for non-compliance are quite high: They can reach up to 30 000 Euro, in case of repetition even up to 60 000 Euro. This prohibition has consequences for the controversial issue of associations for assisted suicide services: They can now be allowed as long as they comply with the prohibitions of advertising and economic benefits.²⁹

The new statute furthermore, states that no one must be forced to give assistance or must be disadvantaged for assisting. In view of these regulations, it will be very interesting to see the consequences for practical implementation: What does that mean for people who are affiliated with religious institutions rejecting assisted suicide (eg hospitals run by the Catholic church)? Will there be doctors and notaries offering information and documentation?³⁰

The last aspect I want to deal with is probably the most controversial: Who is allowed to make use of assistance? According to the new law not everybody but only persons suffering from specific diseases are allowed to take assistance. It is doubtful whether this is constitutional. In my opinion the restriction to terminally ill people is unconstitutional.³¹ Although the Constitutional Court did not explicitly comment on this aspect, it made quite clear that the right to self-determined death roots in human dignity. As everyone defines his/her dignity himself/herself,³² the reasons for doing so in one way or the other must not be assessed by others. Otherwise, the right to self-determination would only be recognised in a particular segment, eg – as in the new statute – only limited to ill people. This interferes with the right to self-determination of healthy persons and thus requires a justification, which is however very difficult to provide: it is hardly conceivable to find a legitimate aim that could justify the interference

²⁶ See Schlussbericht des Dialogforums Sterbehilfe 25, <https://www.bmj.gv.at/themen/Dialogforum-Sterbehilfe.html>.

²⁷ § 3 number 3 Sterbeverfügungsgesetz. See also M. GANNER, *Neues Sterbeverfügungsgesetz*, in *ÖZPR*, 2021, 180 (184).

²⁸ Benefits are expenses that go beyond the proven expenses, § 12 (3) Sterbeverfügungsgesetz.

²⁹ In Austria „Vereine“ (associations) are not profit-oriented.

³⁰ In this context see § 3 number 4 Sterbeverfügungsgesetz: the medical information or documenting the Sterbeverfügung are not covered by the meaning of assistance.

³¹ See also L. KHAKZADEH, *Das Recht auf selbstbestimmtes Sterben. Verfassungsrechtliche Überlegungen zu VfGH 11.12.2020, G 139/2019*, in *RdM*, 2021, 48 (50).

³² W. BERKA, C. BINDER, B. KNEIHS, *Die Grundrechte*², 2019, 291.

with a right that is so closely connected with human dignity. Such a justification can only be possible where the autonomy or dignity of a person has to be secured.

Finally let me make some remarks on the criminal liability of people who assist in suicide.³³ According to the Strafgesetzbuch not every violation of the statute on the will to die leads to criminal liability. This is as such unproblematic, however it seems quite inconsistent that violations of the Sterbeverfügungsgesetz that are not to be punished under Criminal Law are legally irrelevant and not even subject to administrative fines (apart from violations of prohibitions of advertising and benefits). In effect, while it is forbidden to assist a person without valid medical information, it is neither illegal to assist a person without a last will to die nor to assist an informed person although the waiting period was not met. Due to these inconsistencies the question arises, why the legislator set a procedure for the establishment of a last will to die when in the end it is not (or not in all details) necessary for – legally – committing assisted suicide. The impression is that the legislator was quite undecided about the objectives of the new law: Is it to link assisted suicide to medical information? Is the further procedure to establish a last will to die only an additional benefit for those who want to make use of the drug that is provided by the state? Can persons who want to commit suicide by other means already do so after the medical information?

On the whole, the new statute certainly strives for a balanced regulation. However, apart from the points already mentioned it raises many more practical questions. Besides, even the designation (“Sterbeverfügung”) seems inappropriate. The legislation meant to draw a parallel to the Patientenverfügung (patient decree).³⁴ The latter is established for the case of the loss of the decision-making capacity (and considers questions concerning future medical treatment). However, with the last will to die quite the opposite is the case: The decision-making capacity must exist at any time.

One has to be very cautious when making legal predictions, however the risk of my prediction is very small: The Constitutional Court will probably very soon get the opportunity to deal with the right to self-determined death again and then hopefully answer some of questions raised, including those left open by its latest decision.

³³ See also M. GANNER, *Neues Sterbeverfügungsgesetz*, in *ÖZPR*, 2021, 180; P. LEWISCH, *Quo vadis “strafbare Suizidhilfe?” Vom VfGH-Erk zur Neuregelung*, in *ÖJZ*, 2021, 21.

³⁴ See *Patientenverfügungs-Gesetz*, BGBl I 2006/55 as amended by BGBl I 2019/2016.