



RESEARCH ARTICLE

Euthanasia In Kosovo – A Phenomenological, Criminal-Juridical, And Comparative Perspective

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ABSTRACT

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Euthanasia is generally understood as the intentional and painless termination of a person's life by a designated individual, carried out under specific conditions. It is typically applied to individuals suffering from terminal illnesses, experiencing unbearable pain, or in an irreversible comatose state. Although there is no universal definition in international literature, euthanasia has sparked intense debates worldwide since the 20th century, dividing countries into two groups: a minority that supports its legalization and a majority that opposes it. This division is often influenced by the social development of each country or by the prevailing societal values that shape their stance on this practice. Due to the importance of euthanasia and the global developments since the early 21st century, it has become essential to address this phenomenon scientifically. This study aims to present results suggesting that euthanasia is a right, not an injustice, considering the legal framework of the Republic of Kosovo. Taking into account the evolving nature of social relations in our society, which increasingly calls for the incorporation of euthanasia, this paper addresses the hypothesis: Should euthanasia be permitted or prohibited in the criminal justice system of Kosovo? Several methods were employed to scientifically evaluate this issue, forming the core of the study's design: comparative and survey methods. Despite ongoing efforts to answer the hypothesis and determine whether euthanasia constitutes the recognition of a fundamental right to self-determination—allowing individuals to decide over their life or death—or whether this right should be denied, the complexity of the issue, in light of the current situation and specific legal provisions in this field, allows us to conclude that Kosovo's society, based on current social dynamics, leans towards recognizing euthanasia as a right. The study concludes that, based on the analysis conducted and the scientific results obtained from the researched categories, the outcome supports the hypothesis of this scientific paper and confirms the thesis that euthanasia should be decriminalized in the criminal justice system of the Republic of Kosovo.

INTRODUCTION

Euthanasia, understood as the intentional and painless termination of life under specific conditions, remains one of the most controversial topics in the fields of medical ethics, law, and human rights. While the concept of euthanasia has existed since ancient times, its legal and moral standing varies significantly across different societies. Globally, euthanasia has spurred heated debates, dividing countries into those that recognize it as a fundamental right and those that criminalize it. The diversity in its acceptance stems from variations in legal frameworks, societal values, and cultural perspectives.

In Kosovo, euthanasia has not yet been formally addressed within the legal system, leading to uncertainties and debates regarding its potential legalization. This paper seeks to explore euthanasia from a phenomenological, criminal-judicial, and comparative perspective, focusing on the legal and ethical implications of its implementation in Kosovo. By examining the broader legal traditions of continental, Anglo-Saxon, and Latin American law, the study will analyze whether Kosovo's legal framework is poised to recognize euthanasia as a right, reflecting on the criminal justice system's capacity to address this complex issue.

Through a combination of comparative legal analysis and scientific methods, this paper hypothesizes that the evolving social and legal landscape in Kosovo may support the decriminalization of euthanasia, positioning it as a recognized right within the criminal justice system. The study aims to provide a comprehensive understanding of the legal, ethical, and societal dimensions of euthanasia and propose informed recommendations for its possible integration into Kosovo's legal framework.

1.1. Euthanasia: A Contested Human Right and the Challenges of Practical Implementation

Human rights encompass a broad dimension and are interrelated with rights of various natures. The right to euthanasia is also included as part of the potential realization of these rights. Due to its significance, euthanasia is presented as a necessity and demand of the times. This makes it necessary to address it theoretically and practically to fully explore its scope and create opportunities for its practical implementation.

Addressing euthanasia implies recognizing its importance, especially the reason why it should be tackled by exploring the issues related to its impact on legal doctrine, normative-legal regulation, judicial practice, and beyond.

Dealing with euthanasia could contribute to:

- a. Creating subjective-objective prerequisites for its application in our society.
- b. Scientific results could be used for further academic studies to refine the understanding and regulation of euthanasia.
- c. Facilitating the integration of euthanasia into substantive legal provisions, which would comprehensively regulate this issue through scientific achievements.
- d. Supporting judicial practice through practical cases of euthanasia as a secondary source of law in our legislation.
- e. Expanding the scope of technical-medical provisions through the consistent application of euthanasia, complementing the legal nomenclature in criminal law, and directly supporting its implementation in practice.

All of this essentially implies an approach, a deep commitment to not just understanding euthanasia but addressing it with all its complexities. This approach requires dedication, effort, and sacrifice to treat this topic beyond content, with all the modalities it reflects in theory and daily life.

Even though the topic under discussion has not been addressed until today, this theme presents a challenge for it to be comprehensively treated. Despite these shortcomings in terms of the lack of literature in the native language, efforts have been made by consulting literature in other languages and reviewing literature up to the end of the 20th century and the beginning of the 21st century, completing this material by considering the previously addressed or stated viewpoints. In the end, the entire matter has been conceptualized by systematizing the consulted material. With dedication, making various digressions, it has been processed in depth, explaining all euthanasia-related issues.

In this paper, efforts have been made to formulate hypotheses, test them with scientific research, explore the potential application of euthanasia about positive law, the historical aspect of euthanasia, and, finally, compare the conditions and circumstances related to euthanasia and its potential application in practice despite the challenges it entails. Among the significant issues addressed both in earlier periods and today is the issue of euthanasia, often considered more in a philosophical context, less in a practical one, and barely addressed from a legal perspective. This issue is rooted in

natural law, drawn from the right to life, which can then derive the right that stands as its counterpart, namely the right to end life, connected with the concept of euthanasia.

In this regard, both doctrinal-legal theorists and other scholars and commentators present arguments both for and against euthanasia, questioning whether, in a broader sense, euthanasia constitutes the realization of a right derived from the right to life, offering differing arguments on whether euthanasia should be recognized.

A group of scholars from this field have clear ideas that euthanasia constitutes a right derived from the right to life and represents an exclusive right of its holder, extending to the extreme, where, in certain circumstances, this right can also derive the right to death. Studies have shown that hopelessness and the feeling of being a burden are reasons that drive people to seek euthanasia or physician-assisted suicide (Pereira, 2011).

One of the arguments against allowing euthanasia is when the medical profession becomes involved in killing. This undermines the relationship between the patient and the doctor, as people trust doctors with their lives, believing they are committed to preserving life, healing, and caring for them (AHRC, 2016). At first glance, this concept looks abstract and unsuitable for realization in relation to the typical concept of a right. It disregards the possibility that a citizen or subject might raise these rights to an extreme level, which does not align with moral norms regarding the right to deprive oneself of life. Even though these theorists have attempted to conceptualize this right as one that can be exercised in extreme measures, exceeding the boundaries of a right as a concept of personal freedom, extending even to taking one's own life,

Nevertheless, in their explanations, they have tried to personify the right to life as a right that, in its domain, encompasses various freedoms and rights without considering that this right could derive from the right to take one's own life. This inability to explain or conceptualize the right to life does not indicate in their explanations whether this right, despite legal barriers and under certain conditions, enables a person to request help from another to end their life.

Laws that have permitted euthanasia must offer adequate procedural guarantees against possible abuses to fulfill the state's obligation to protect the right to life, as emphasized by the United Nations Committee (CCPR, 2001). In circumstances where the proponents of this issue have not managed, through their perceptions, to analyze the right to death, derived from the right to life, euthanasia as a right and as a possibility, or as an instrument for realizing this right, remains less permitted. This is because, to realize this right, certain conditions must first be met, which, in fact, present a real obstacle, hindering its realization in practice.

2. LITERATURE REVIEW

In choosing whether to opt for euthanasia or not, each individual must decide for themselves whether they wish to choose a gentle and less painful death or endure slow and unbearable suffering. The choice of death should be carefully considered, considering several components such as biological, familial, social, cultural, economic, and psychological factors, always reflecting the individual's autonomy without external influences against their will (Barata, 2020). Euthanasia, as a phenomenon increasingly represented in modern legislation, can be viewed from many perspectives, including historical, positive, religious, psychological, and sociological aspects.

2.1. Euthanasia Through the Ages: A Fundamental Right or an Essential Need?

The tendency to consider euthanasia as a right or a necessity date back to ancient times, presented in various forms as individuals in need due to severe pain expressing their desires within their communities for someone to help them end their lives, either through their own actions or with the assistance of a third party, to "escape" unbearable pain. The earliest mentions of euthanasia can be found in the writings of Hippocrates and Cicero, who conceptualized this right within the broader right to life, from which other rights, such as the right to death, the right to abortion, and euthanasia, emerge (ICCPR, 2015).

For more than 3,000 years, euthanasia has been a subject of controversy. In antiquity, in addition to Hippocrates, other philosophers such as Epicurus, Plato, Aristotle, Socrates, and Pythagoras indirectly dealt with euthanasia (Cooper, 1989). Hippocrates, regarded as the father of medicine,

stated in his work "The Art" that "Doctors should not treat patients with incurable diseases," advocating for passive euthanasia while opposing active euthanasia, saying, "I will not give anyone a lethal drug, even if asked" (Papadimitriou et al., 2007). During this period, these three rights were not fully conceptualized, except for the right to death, as individuals could not decide on their own; instead, their life or death was determined by their patron or ruler. The other two rights—the right to abortion and euthanasia—were not clearly expressed. However, some forms of euthanasia were practiced in certain societies, often carried out by unorganized social groups when an individual had severe physical deformities, unbearable pain, or an incurable disease (e.g., throwing into a fast-flowing river, burning in a wooden tube, throwing into an abyss, etc.).

Later, during the Middle Ages, as citizens' rights and freedoms improved, particularly with the adoption of documents like the Magna Carta Libertatum and the Habeas Corpus Act, the fundamental right to life as a universal right belonging to the individual became more represented. The trend toward improving citizens' rights led to the expansion of other rights based on the right to life, such as the right to death, the right to abortion, and the right to euthanasia.

Despite the natural law supporting these rights as inherent from birth, the religious perspective, especially in the Middle Ages, strongly opposed these rights, explaining that they exceed human boundaries and are tied to strict religious dimensions. Any attempt to exercise these rights was considered sinful. When certain social groups tried to apply these rights, they encountered fierce opposition from religious institutions, and those who advocated or implemented them were treated harshly, often facing physical punishment or even execution.

During the 18th century, euthanasia as a term was coined by theorists of that time, with the intention of creating conditions for a painless death for individuals in a severe condition, to alleviate the suffering caused by incurable diseases, and to be carried out by healthcare professionals at the request of the patient (Barata, 2020). Despite significant advances in medical sciences during this period, which led to the diagnosis and treatment of various diseases, medicinal preparations were also developed that allowed for the realization of these rights, whether in terms of death, abortion, or euthanasia.

In modern times, the rights and freedoms of citizens, particularly the right to life as a universal fundamental right, have expanded, with numerous international conventions, protocols, and basic documents regulating this right, especially regarding euthanasia. In the full sense of the word, euthanasia in these historical periods was expressed in this manner. However, in later periods, alongside the development of society, social sciences, and medical sciences, the forms, tools, and methods of assisted euthanasia evolved, expressed either openly or latently, depending on the level of societal development at the time.

2.2. The Evolution of Euthanasia: A Historical, Ethical, and Legal Analysis from Antiquity to Modern Times

Sources related to the institution of euthanasia divide its development into three distinct periods. These sources identify the following stages: the first period encompasses antiquity, the second the Middle Ages, and the third the modern era, in which euthanasia emerged as an institution.

The first period, antiquity, refers to the time from the birth of Christ until the Middle Ages. It marks the earliest manifestations of euthanasia in two ancient states: Greece and the Roman Empire. Doctors known as *Medicus* popularly administered lethal substances to individuals with incurable diseases and severe pain to end their lives (Cole, 2004). This period is not characterized by a satisfactory level of medical and criminal provisions governing euthanasia as an institution, although it existed in certain circumstances.

The second period, known as the Middle Ages, spans the decline of the Roman Empire and the rise of Byzantium. All regulations related to euthanasia were tied to religious norms, which strictly prohibited it (Task Force on Life and the Law, 1995). With the emergence of documents such as the Magna Carta Libertatum and the Habeas Corpus Act, which improved citizens' positions in society, the foundations of euthanasia began to take shape, although these ideas faced opposition from religious norms.

The third period, recognized as the modern era, encompasses the late 19th century to the present and is characterized by the inclusion of euthanasia with all its attributes. Its final regulation began in 1973 when the American Hospital Association adopted the Patient's Bill of Rights, which recognized the right to refuse medical treatment.

Subsequently, other countries adopted basic documents, whether recommendations, decisions, or foundational laws, recognizing passive euthanasia. Later, with the fulfillment of social and historical conditions, they also allowed active euthanasia, as seen in countries like the Netherlands, Belgium, Luxembourg, and Spain.

Euthanasia has been one of the most debated topics over the last three decades of the 20th century and the beginning of the 21st century, raising questions from ethical, medical, and legal perspectives. The discussion on euthanasia has polarized societies, creating clear divisions between those who support or oppose this practice (Banovic & Turanjanin, 2014). In criminal justice systems, euthanasia is addressed in three main ways: as murder, as privileged murder, or as a decriminalized medical procedure in Western European states (Banovic & Turanjanin, 2014). In this context, a brief comparison has been made between Continental European countries' legislation and Anglo-Saxon countries' legislation.

2.3. The Rise of Support for Euthanasia and Physician-Assisted Suicide: Global Perspectives and Legislative Debates

The allowance of euthanasia and physician-assisted suicide is on the rise globally, representing a significant shift in attitudes toward euthanasia and related practices within individual countries.

Thus, we can distinguish different forms of euthanasia, which vary depending on the specific country in question. Based on these forms, public support for euthanasia and physician-assisted suicide has been increasing, particularly in Western European countries. For instance, such support in the United States dates back to the 1990s, in contrast to Eastern European countries, where these practices do not receive widespread endorsement (Emanuel et al., 2016).

It is worth noting that the two expressive forms—euthanasia and physician-assisted suicide—are gaining prevalence, particularly among patients with terminal illnesses. The legislation regarding euthanasia differs from that of physician-assisted suicide, depending on the country. In non-voluntary euthanasia, the patient's consent is not required, whereas involuntary euthanasia is illegal worldwide.

Euthanasia and physician-assisted suicide are legally permitted in the Netherlands, Belgium, Luxembourg, Spain, Colombia, Canada, and New Zealand (End of Life Choice Act, 2019). Physician-assisted suicide is legal in eleven U.S. states (Oregon et al. of Columbia, Hawaii, New Jersey, New Mexico, Maine), in Canada (North America), in Colombia (South America), in seven European countries (Netherlands, Belgium, Luxembourg, Switzerland, Spain, Germany, and Austria), in six Australian states (New et al.), and in one island nation in the southwestern Pacific Ocean (New Zealand). Currently, in U.S. states where physician-assisted suicide is legal, individuals must be able to self-administer the life-ending medication as required by law (Hiatt, 2016).

Regarding euthanasia and physician-assisted suicide, debates persist within European societies, especially in comparison with the legislation of other European countries where such practices are not permitted, with opinions divided on supporting or opposing these forms of euthanasia.

2.4. Euthanasia in Kosovo

Euthanasia is a sensitive and complex topic, particularly when viewed through the lens of international law and the constitutions of various countries. In Kosovo, this issue remains ambiguous and unregulated within the existing legal framework, although legal interpretations may illuminate important aspects of it, such as respect for fundamental human rights.

2.5. Euthanasia According to the Constitution of Kosovo

The Constitution of the Republic of Kosovo recognizes the importance of interpreting human rights in accordance with international practices and standards, including decisions of the European Court of Human Rights (ECHR). Article 53 of the Constitution of Kosovo clearly stipulates that the

interpretation of fundamental human rights and freedoms must align with ECHR rulings: Human rights and fundamental freedoms guaranteed by this Constitution shall be interpreted consistent with the court decisions of the European Court of Human Rights” (Constitution of Kosovo, 2008).

This provision underscores the importance of harmonizing Kosovo’s legislation with that of the European Union and the European Court. In this context, the well-known *Pretty v. United Kingdom* case was pivotal in shaping the legal framework regarding euthanasia and the right to private life, as protected by Article 8 of the European Convention on Human Rights. In this case, the ECHR found that the prohibition of euthanasia or physician-assisted suicide could be justified as necessary in a democratic society to protect others (Australiano et al. Commission, 2016).

Nevertheless, the ECHR has acknowledged the individual’s right to decide how and when to end their life, as long as the decision is made freely and with consent. This includes the right to refuse medical treatment that may prolong life against an individual’s will. Although this approach remains debated, it sets an important precedent for member states, including Kosovo, to reflect on the role of individual fundamental rights in a democratic society (Hasani & Cukalovic, 2013).

2.6. Euthanasia According to the Penal Code of Kosovo

The Penal Code of the Republic of Kosovo does not permit euthanasia, and any actions in favor of euthanasia are treated as murder under Article 172 of the Penal Code of Kosovo: “Whoever deprives another person of life shall be punished by imprisonment of not less than five (5) years” (Criminal Code of Kosovo, 2019). This provision is similar to many other criminal systems where euthanasia is not recognized and is considered murder when performed by another person or suicide if performed by the patient.

2.7. Euthanasia According to the European Convention on Human Rights (ECHR)

No international human rights document guarantees the right to die as a fundamental right. Instead, these documents focus on protecting life as one of the fundamental human rights. Article 2 of the European Convention on Human Rights (ECHR) and Article 6 of the International Covenant on Civil and Political Rights (ICCPR) clearly state that states have an obligation to protect life and prevent violations by third parties (ECHR, 1950).

In some instances, the European Court of Human Rights has allowed exceptions, including euthanasia, as part of the right to respect for private life under Article 8 of the ECHR. However, this remains a contested issue, and any decision must rigorously uphold human rights protection and comply with the internal regulations of member states (Hendriks, 2018).

In conclusion, euthanasia remains an open topic in many countries, including Kosovo. Its interpretation must align with constitutional provisions and international law while considering the European Court of Human Rights standards and the obligations derived from fundamental human rights.

2.8. Cases from the Practice of the European Court of Human Rights regarding Euthanasia

1. Haas v. Switzerland

On January 20, 2011, in its chamber judgment, the case raised by the applicant and the competent court focused on the right to private life and the judicial decision that, according to the applicant, had infringed this right. Specifically, the question was raised whether a person suffering from an incurable disease, manifesting with great pain and no prospects for life, has the right to request that the state provide assistance in ending their life through lethal substances. The court’s decision ruled against the applicant’s claim, considering that providing assistance in administering lethal substances to end the applicant’s life would constitute an illegal act (ECHR, 2011).

In this case as well, the court ruled that there had been no violation of Article 8 (the right to respect for private life) of the Convention, noting that although the state had a positive obligation to take measures to alleviate pain, the Swiss authorities had not violated this obligation in the applicant’s case (ECHR-CoE, 2021).

2. Lambert and Others v. France

On June 5, 2015, the Grand Chamber delivered its judgment in a case where the parties included the parents, a half-brother, and a sister of Vincent Lambert, who suffered a head injury in a road accident in 2008, resulting in him becoming tetraplegic (Warbleton Council, 2022). They specifically challenged the decision of June 24, 2014, by the French Conseil d'État, which, based on a medical report prepared by a panel of three doctors, upheld the lawfulness of the decision made on January 11, 2014, by Vincent Lambert's attending physician to discontinue his artificial nutrition and hydration. The applicants argued that the withdrawal of his artificial nutrition and hydration would contravene the state's obligations under Article 2 (the right to life) of the European Convention on Human Rights (ECHR, 1950).

The court found that, in the specific case, there had been no violation of Article 2 (the right to life) of the European Convention on Human Rights in the application of the Conseil d'État's decision of June 24, 2014 (ECHR-CoE, 2022). The court concluded that the legislative framework defined by domestic law, as interpreted by the Conseil d'État, and the decision-making process, which had been thoroughly carried out, were fully in accordance with the requirements of Article 2 of the Convention.

3. RESEARCH METHODS

To successfully conduct this study, it is essential to apply various methods and techniques that, in their entirety, address euthanasia as a phenomenon, always considering the experiences and solutions that can be found in more developed countries. The use of classical methods of analysis and techniques related to euthanasia, utilizing comparison and surveys, enables a more complete and detailed reflection on euthanasia with all its dimensions.

3.1. Comparative Method

The comparative method in our study represents the identification of similarities and differences in the phenomenon of euthanasia between countries or groups of countries that permit or prohibit euthanasia. This method is one of the most important for case studies, as it allows for the comparison of one case with another under perceived conditions in time or space, and through these comparisons, more satisfactory scientific results can be achieved.

3.2. Survey Method

Surveys, as an important source of research for social scientists, were conducted to understand the conditions, opinions, and attitudes towards a particular phenomenon—in this case, euthanasia. The survey was designed as a logical process with the objective of studying whether euthanasia represents a right or, conversely, an injustice. It was based on prior research work and materialized the objectives through five general and five specific questions, for a total of ten questions, whose answers provided the necessary data to verify the formulated hypotheses. The questions were structured as closed questions, meaning respondents had the opportunity to choose only one option. To ensure the clarity of the questions, the survey was kept brief to avoid distracting respondents from providing accurate answers. The questions were formulated clearly and, allowing respondents to answer without difficulty, without needing to think deeply, and considering the audience to whom the survey was addressed. The concepts and words used in the survey were understandable to the respondents' level. The wording of the questions avoided any influence or bias on the respondents, and there were no similar questions, adhering to the necessary conditions for constructing questionnaires with general questions.

4. ETHICAL CONSIDERATIONS

In this paper, the basic ethical requirements of scientific research have been strictly respected, such as: honesty, objectivity, integrity, care, openness, respect for copyright and intellectual property, confidentiality or good faith, non-interference in the private lives of individuals, and the right to publish the results of the study.

5. RESEARCH RESULTS

Despite the fact that the treatment of euthanasia in this study represents the first steps in Kosovar society, considering the growing interest in this topic, which is a subject of global discussion, it is

important that euthanasia, through debates and awareness-raising, be accepted as a right derived from the universal right to human rights, which stems from the right to life.

Research on euthanasia as a right or injustice in the Republic of Kosovo was conducted from January 28, 2022, to April 10, 2022. This research was carried out through an online survey, targeting legal professionals as the most important group in this field in Kosovo.

In a multiethnic state such as the Republic of Kosovo, where euthanasia is at the center of study, it is essential that the research results be based on scientific methods. These results must be representative and based on a reliable sample, while maintaining fidelity to the inherent characteristics, qualities, composition, and other socio-demographic indicators that define this group.

The survey was distributed among legal professionals at the two largest universities in the country, the University of Prishtina "Hasan Prishtina" and the University of Prizren "Ukshin Hoti". The survey consisted of ten questions divided into two main parts. The first part included five demographic characteristics of the legal professionals, while the second part included five questions regarding their opinions and attitudes towards euthanasia.

The survey was largely based on previous research or studies by Shaikhah Abohaimed et al. in their paper titled "Attitudes of Physicians towards Different Types of Euthanasia in Kuwait" (<https://doi.org/10.1159/000497377>) in 2019, and on the study by Peter Baume and Emma O'Malley in their paper titled "Euthanasia: attitudes and practices of medical practitioners" (<https://onlinelibrary.wiley.com/doi/epdf/10.5694/j.1326-5377.1994.tb127345.x>) in 1994.

5.1. Research Results according to Socio-Demographic Characteristics of Legal Professionals

Based on the scientific analysis and the data collected from legal professionals, it is clear that the research supports the theses for the legalization of euthanasia within the criminal justice system of the Republic of Kosovo. The research is based on data divided according to the socio-demographic characteristics of the legal professionals and their views on euthanasia, which contribute to drawing important scientific and legal conclusions.

5.2. Research Results Organized According to Socio-Demographic Characteristics of Jurists

The data from the research based on the socio-demographic characteristics of jurists are shown in Table 1.

Table 1. First part of the survey with socio-demographic characteristics of jurists

Survey on socio-demographic characteristics of jurists		
1. Gender?	109	100,00%
M	42	38,53%
F	66	60,55%
Others	1	0,92%
2. Age?	109	100,00%
30 or younger	71	65,14%
31 – 39	9	8,26%
40 or older	10	9,17%
Others	19	17,43%
3. Ethnicity?	109	100,00%
Albanian	105	96,33%
Turkish	2	1,83%
Serb	0	0,00%
Others	2	1,83%
4. Religion?	109	100,00%
Muslim	102	93,58%
Catholic	7	6,42%
Orthodox	0	0,00%
Others	0	0,00%

5. Jurists?	109	100,00%
Basic Studies	68	62,39%
Master's degree	8	7,34%
PhD	11	10,09%
Others	22	20,18%

The research data based on the socio-demographic characteristics of jurists represent the first primary part, while the socio-demographic characteristics of jurists regarding euthanasia are as follows: the total number of jurists registered in the research is 109. Of these, 42 (38.53%) are male, and 66 (60.55%) are female. Regarding age, 71 (65.14%) are 30 or younger, 9 (8.26%) are between 31-39, and 10 (9.17%) are 40 or older. In terms of ethnicity, 105 (96.33%) are Albanian, there are no Serbs, and 2 (1.83%) are Turkish. As for religion, 102 (93.58%) are Muslim, and 7 (6.42%) are Catholic, with no Orthodox respondents. Regarding educational level, 68 (62.39%) have basic studies, 8 (7.34%) have a master's degree, and 11 (10.09%) have a PhD.

5.3. Research Results Organized According to Questions with Jurists

The data from the research based on questions with jurists are shown in Table 2.

Table 2. Second part of the survey with questions for jurists

Survey of questions with jurists		
1. Euthanasia, is it right or injustice?	109	100,00%
Euthanasia as a right	66	60,55%
Euthanasia as injustice	36	33,03%
Others	7	6,42%
2. Is euthanasia a religious right or a natural right?	109	100,00%
Euthanasia as a natural right	58	53,21%
Euthanasia as a religious right	43	39,45%
Others	8	7,34%
3. Should euthanasia be represented in our legislation or not?	109	100,00%
Yes	66	60,55%
No	38	34,86%
Others	5	4,59%
4. The human side of representing or not this possibility?	109	100,00%
Yes	66	60,55%
No	36	33,03%
Others	7	6,42%
5. Un (realistic) conditions for representation?	109	100,00%
Yes	53	48,62%
No	51	46,79%
Others	5	4,59%

The research data based on questions with jurists represent the second primary part of the survey, and the jurists attitudes towards euthanasia are as follows: Regarding whether euthanasia is a right or an injustice, 66 (62.55%) of jurists responded that it is a right, while 36 (33.03%) stated it is an injustice. Regarding whether euthanasia is a natural or religious right, 43 (39.45%) of jurists stated it is a religious right, while 58 (53.21%) stated it is a natural right. On the question of whether euthanasia should be represented in our legislation, 66 (60.55%) answered Yes, while 38 (34.86%) answered No. On the humane aspect of representation, 66 (60.55%) answered Yes, while 36 (33.03%) answered No. Regarding unrealistic conditions for representation, 53 (48.62%) answered Yes, while 51 (46.79%) answered No.

5.4. Research Data on Jurists in Favor and Against Euthanasia

The research data on jurists in favor and against euthanasia are shown in Table 3.

Table 3. Data processing for jurists in favor and against euthanasia

Research data with jurists in favor and against euthanasia	
1. Euthanasia, is it right or injustice?	
In favor	60,55%
Against	33,03%
2. Is euthanasia a religious right or a natural right?	
In favor	53,21%
Against	39,45%
3. Should euthanasia be represented in our legislation or not?	
In favor	60,55%
Against	34,86%
4. The human side of representing or not this possibility?	
In favor	60,55%
Against	33,03%
5. Un (realistic) conditions for representation?	
In favor	48,62%
Against	46,79%

The presentation of the research data on jurists in favor and against euthanasia represents the second stage of data processing, involving reasoning from particular facts (data presentation in tables) to general conclusions. It includes the basic questions of the study, from which research data results are drawn. Regarding the question of whether euthanasia is a right or an injustice, 60.55% of lawyers responded in favor of euthanasia, while 33.03% responded against it. On the question of whether euthanasia is a religious or natural right, 53.21% of lawyers responded in favor of euthanasia, while 39.45% responded against it. On the question of whether euthanasia should be represented in our legislation, 60.55% responded in favor, while 34.86% responded against it. Regarding the humane aspect of representation, 60.55% responded in favor, while 33.03% responded against it. For the question regarding unrealistic conditions for representation, 48.62% responded in favor, while 46.79% responded against euthanasia.

5.5. Research Data on the Allowance and Prohibition of Euthanasia

The research data on the allowance of euthanasia in Kosovo's criminal justice system are shown in Table 4.

Table 4. Data processing for the allowance or prohibition of euthanasia

Research data on allowing or prohibiting euthanasia	
Allowing euthanasia	56,70%
The prohibition of euthanasia	37,43%

The presentation of the research data on the allowance or prohibition of euthanasia represents the third stage of data processing. This includes the entire survey of jurists, but in order to obtain accurate data results, the research data have been processed based on the listed results of the research for jurists in favor and against euthanasia, as shown in the second stage of data processing from the five specific questions. The processing of the research data revealed that 56.70% of jurists responded in favor of allowing euthanasia, while 37.43% responded in favor of prohibiting it.

In conclusion, the analysis of the data shows that the majority of jurists (56.70%) are in favor of allowing euthanasia, while 37.43% are against it. This leads to the conclusion that euthanasia should be legalized, and its prohibition constitutes an injustice within the criminal justice system of the Republic of Kosovo.

Scientific Arguments for Allowing Euthanasia:

- Kosovar society has reached a satisfactory level of socio-economic and political development that enables the implementation of euthanasia.
- Kosovo has the capacity to meet all objective and subjective requirements for its implementation within a short period.
- Society already favors euthanasia, and its implementation depends on various objective and subjective factors.
- Public opinion suggests taking steps toward launching a legal platform and preparing the necessary conditions for its implementation.
- The scientific results are verifiable and supported by conclusions based on accurate scientific research.

6. CONCLUSION

Based on the findings related to the legal framework for allowing euthanasia in Kosovo, it has been determined that some of the most critical issues associated with legal regulation at the international level are the International Covenant on Civil and Political Rights and the European Convention on Human Rights. Both are directly applicable in Kosovo's constitutional-legal system and have binding force under Article 22 of the Constitution of the Republic of Kosovo. The Constitution of the Republic of Kosovo includes a specific provision in Article 53, which stipulates that judicial decisions of the European Court of Human Rights interpret the fundamental rights and freedoms guaranteed by this Constitution. In addition to recognizing the constitutional status of certain international agreements and instruments under Article 22, Article 53 clarifies that the jurisprudence of the European Court of Human Rights is binding on all public authorities in Kosovo. According to Article 55 of the Constitution, the fundamental rights and freedoms guaranteed by the Constitution can only be limited by law, if necessary for the realization of a specific right and due to its nature.

However, the Criminal Code of the Republic of Kosovo does not currently criminalize euthanasia, but prohibits and punishes the perpetrator under Article 172 of the Criminal Code for ordinary murder. The commentary on the International Covenant on Civil and Political Rights emphasizes that the state's obligation to provide legal protection for the right to life should not extend to protecting life and health against the expressed wishes of the affected individual. The European Court of Human Rights, when examining laws on euthanasia and assisted suicide under the European Convention on Human Rights, has ruled that the state's obligation to protect life does not exclude the possibility of allowing euthanasia, provided that protective measures are in place. In the case of *Haas v. Switzerland*, the European Court of Human Rights ruled that the right to life guaranteed under Article 2 of the Convention obliges states to establish procedures that ensure that the decision to end life reflects the free will of the individual. In the case of *Lambert and Others v. France*, the European Court of Human Rights ruled that a potential violation of Article 2 must also be linked to Article 8 of the Convention concerning the right to respect for private life and personal autonomy.

Based on the study of this issue, it has been concluded that euthanasia, due to its significance in Kosovar society, is essential for its realization and directly constitutes an exclusive right belonging to the individual under Articles 22, 53, and 55 of the Constitution of Kosovo. Furthermore, its inclusion in the entire legal and technical framework should conceptualize euthanasia as a right.

According to the scientific findings derived from this research, it has been determined that: In everyday life, both in common communication and at higher scientific levels, euthanasia is a discussed topic. As in other societies, in our society, this issue has gained attention, transitioning from fundamental issues to broader scientific treatment. Efforts are being made to raise this issue to the governmental level so that steps can be taken to address it and prepare a legal framework to incorporate euthanasia into our penal legislation.

Various state mechanisms and civil society, as well as specific social groups, should take initiatives so that the issue of euthanasia gains momentum and is represented as a right for citizens, allowing them, under specific conditions, to seek its implementation.

Despite ongoing efforts to address the hypotheses of whether euthanasia implies the recognition of a person's fundamental right to self-determination over life or death, or whether this right should be denied, the complexity of the issue and the current legal provisions lead to the conclusion that Kosovar society, based on the current situation and dominant social relations, is in favor of representing euthanasia as a right.

Through comprehensive efforts to address this topic, attention has been focused on specific social groups, with results scientifically supporting euthanasia as a civil right in our society. The data collected, scientifically analyzed from responses given by various professional groups, show that 56.70% of respondents believe that euthanasia should be allowed, while 37.43% are against it. This focus on different subcategories within a social group has been made to ensure that the scientific results are as concrete as possible and that confidence in the objectivity of the outcome is clearly expressed through numbers and facts.

In conclusion, based on the analysis of scientific results from the studied category, the final scientific result supports the hypothesis of this research and confirms that euthanasia should be allowed as a right, while its prohibition constitutes an injustice in the Republic of Kosovo. The scientific result emphasizes a fact that paves the way for all social mechanisms to take action to incorporate euthanasia in all its dimensions.

LITERATURE

1. Abohaimed, Sh., Matar, B., Al-Shimali, H., Al-Thalji, K., Al-Othman, O., Zurba, Z., Shah, N. (2019). *Attitudes of Physicians towards Different Types of Euthanasia in Kuwait*. Retrieved from Medical Principles and Practice: <https://karger.com/mpp/article/28/3/199/204645/Attitudes-of-Physicians-towards-Different-Types-of> DOI: <https://doi.org/10.1159/000497377>
2. Australian Human Rights Commission. (2016). *Euthanasia, human rights and the law*. Retrieved from: <https://humanrights.gov.au/our-work/age-discrimination/publications/euthanasia-human-rights-and-law>
3. Banovic & Turanjanin. (2014). *Euthanasia: Murder or Not: A Comparative Approach*. 1316–1323. Retrieved from: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4441884/citedby/> DOI: <https://doi.org/10.1371/journal.pone.0309914>
4. Barata, L. (2020). *From the Past to the Present Death and Euthanasia*. Retrieved from: <https://www.medicina.ulisboa.pt/en/newsfmul-artigo/98/death-and-euthanasia>
5. Baume, P., O'Malley, E. (1994). *Euthanasia: attitudes and practices of medical practitioners*. Retrieved from The Medical Journal of Australia: <https://onlinelibrary.wiley.com/doi/epdf/10.5694/j.1326-5377.1994.tb127345.x>
6. CCPR. (2001). *UN Human Rights Committee, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding observations of the Human Rights Committee – Netherlands, Human Rights Committee, 72nd sess, UN Doc CCPR/CO/72/NET, para 5(d)*. Retrieved from United Nation Digital Library: <https://digitallibrary.un.org/record/455302?ln=en>
7. Criminal Code of Kosovo. (2019). *Official Gazette of the Republic of Kosovo*. Retrieved from: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413>
8. Constitution of Kosovo. (2008). *Official Gazette of the Republic of Kosovo*. Retrieved from: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=3702>
9. Cooper M. John. (1989). *Greek philosophers on euthanasia and suicide*. Kluwer Academic Publishers, 9-38. Retrieved from: https://link.springer.com/chapter/10.1007/978-94-015-7838-7_2#chapter-info DOI: https://doi.org/10.1007/978-94-015-7838-7_2
10. End of Life Choice Act. (2019). *End of Life Choice Act 2019*. Published under the authority of the New Zealand Government—2019. Retrieved from: <https://wfrtds.org/new-zealand-votes-yes-to-the-end-of-life-choice-act/>

11. European Convention on Human Rights. (1950). *Convention for the Protection of Human Rights and Fundamental Freedoms*. Retrieved from www.echr.coe.int/https://www.echr.coe.int/documents/convention_eng.pdf
12. European Convention on Human Rights. (2011). *Hass v. Switzerland (Application no. 31322/07)*. Retrieved from HUDOC, ECHR, CoE: <https://hudoc.echr.coe.int/eng-press?i=003-3405698-3821885>
13. European Convention on Human Rights. (2015). *Lambert and Others v. France [GC] - 46043/14*. Retrieved from Council of Europe/European Court of Human Rights: <https://hudoc.echr.coe.int/fre?i=002-10758>
14. ECHR-CoE. (2021). *Right to respect for private and family life, home and correspondence*. Retrieved from Guide on Article 8 of the European Convention on Human Rights: https://www.echr.coe.int/documents/guide_art_8_eng.pdf
15. ECHR-CoE. (2022). *End of life and the European Convention on Human Rights*. Retrieved from Press Unit: https://www.echr.coe.int/documents/fs_euthanasia_eng.pdf
16. Emanuel J. E, Onwuteaka-Philipsen D, B, Urwin W. J, Cohen J. (2016). *Attitudes and Practices of Euthanasia and Physician-Assisted Suicide in the United States, Canada, and Europe*. Retrieved from PubMed: <https://pubmed.ncbi.nlm.nih.gov/27380345/>
DOI: <https://doi.org/10.1001/jama.2016.8499>
17. ICCPR. (2015). *Contribution to the General Discussion in preparation for General Comment No. 36 (Article 6 of the ICCPR: Right to life)*. The National Right to Life Educational Trust Fund. Retrieved from: <https://www.ohchr.org/sites/default/files/Documents/HRBodies/CCPR/Discussion/2015/NRLC.doc>
18. Hasani & Cukalovic. (2013). *Commentary on the Constitution of the Republic of Kosovo*. Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH. Retrieved from: https://jus.igik.rks-gov.net/487/1/Komentari_Kushtetuta_11_Shqip.pdf
19. Hendriks, A.C. (2018). *End-of-life decisions*. Recent jurisprudence of the European Court of Human Rights. Retrieved from Springer Link: <https://link.springer.com/article/10.1007/s12027-018-0530-7>
DOI: <https://doi.org/10.1007/s12027-018-0530-7>
20. Hiatt, A. (2016). *The History of the Euthanasia Movement*. JSTOR. Retrieved from <https://daily.jstor.org/history-euthanasia-movement/>
21. Papadimitriou D. John, Panayotis Skiadas, Kyriaki J. Papacostas. (2007). *Euthanasia and suicide in antiquity: viewpoint of the dramatists and philosophers*. Journal of the Royal Society of Medicine, 25-28. Retrieved from: <https://journals.sagepub.com/doi/full/10.1177/014107680710000111>
DOI: <https://doi.org/10.1177/014107680710000111>
22. Pereira. (2011). *Legalizing euthanasia or assisted suicide: the illusion of safeguards and controls*. Retrieved from Current Oncology MDPI: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3070710/>
DOI: <https://doi.org/10.3747/co.v18i2.883>
23. Task Force on Life and the Law. (1995). *Book Review - When Death is Sought: Assisted Suicide and Euthanasia in the Medical Context*. Retrieved from The New York States Task Force on Life and the Law: <https://www.chausa.org/publications/health-progress/archive/article/july-august-1995/book-review---when-death-is-sought---assisted-suicide-and-euthanasia-in-the-medical-context>
24. Thomas R. Cole. (2004). *A Merciful End: The Euthanasia Movement in Modern America*. By Ian Dowbiggin. (New York: Oxford University Press, 2003). Retrieved from The Journal of American History: <https://academic.oup.com/jah/article-abstract/91/1/307/763095>
DOI: <https://doi.org/10.2307/3659740>