

Voluntary contribution to the French Constitutional Council defending the right of religious organisations not to accommodate the practice euthanasia and assisted suicide

We, the undersigned, magistrates, professors, jurists and researchers from various academic institutions throughout the world, have learned with great concern that, on July 15, 2026, the French Parliament adopted the "Law on the right to assistance in dying" ("Loi relative au droit à l'aide à mourir"), thereby legalizing euthanasia and assisted suicide.

Already at the stage of the parliamentary proceedings on the bill, numerous lawyers, civil society organizations and human rights bodies publicly warned that certain provisions of the proposal would be irreconcilable with international human rights obligations voluntarily undertaken by France. Aware of these concerns and harboring continuing doubts as to the compatibility of the adopted legislation with fundamental rights and individual freedoms, several political bodies decided to refer the matter to the Constitutional Council for constitutional review.

Without seeking to detract from the compelling arguments raised by political actors concerning the incompatibility of the new law with the French Constitution, this voluntary contribution aims to bring to the Constitutional Council's attention the particular threat posed by the adopted text to religious freedom as well as to the internationally recognized principle of institutional autonomy of religious communities and faith-based associations. To this end, we wish to highlight several aspects of the new legislative framework that reveal its manifest incompatibility with the norms of International and European Human Rights Law.

First and foremost, we deeply deplore the absence of provisions in the new law protecting healthcare and medico-social facilities from being required to permit the practice of euthanasia and assisted suicide on their premises.

Article 14 of the "Law on the right to assistance in dying" requires all healthcare and medico-social facilities to allow the practice of euthanasia and assisted suicide on their premises. This obligation applies, *inter alia*, to all nursing homes and residential facilities for people with disabilities or persons in emergency situations, both public and private (including those that receive no public funding). In other words, it covers all healthcare facilities regardless of their nature and purpose. The law does not foresee any derogation from this obligation for the benefit of the institutions, the ethos of which is based on religion or belief. This means that the duty directly applies to religious congregations devoted to the provision of healthcare as well as to other faith-based organizations, such as the Little Sisters of the Poor.

It must be observed that the obligation imposed on these entities entails a whole set of related duties aimed at ensuring the correct implementation of the procedure for administering death. In practice, it is incumbent upon healthcare entities, *inter alia*, to ensure the physical presence of their staff during the procedure, address any complications that may arise, manage relations with the family and the institution's employees, take responsibility for the corpse or

provide the lethal substance (where the institution operates an internal pharmacy). Any failure in performance of these duties will give rise to legal liability.

Requiring religious institutions and faith-based organizations to allow and facilitate euthanasia and assisted suicide to be performed on their premises and to ensure the correct implementation of the procedure, in violation of their beliefs, amounts to forcing them to act against their convictions and renounce their religious identity. This constitutes a **clear interference with their freedom of thought, conscience and religion** recognized, *inter alia*, by the Universal Declaration of Human Rights (Article 18), the International Covenant on Civil and Political Rights (Article 18), the American Convention on Human Rights (Article 12), the European Convention on Human Rights (Article 9) and the Charter of Fundamental Rights of the European Union (Article 10).

Obliging faith-based entities to consent to the practice of euthanasia and assisted suicide being performed on their premises and to *de facto* co-participate in the whole process of administering death is also contrary to the **principle of autonomy of religious institutions and faith-based organizations** safeguarded by numerous instruments of International Human Rights Law. According to this principle, which is rooted in both **religious freedom** and **freedom of association**, religious institutions and entities with faith-based status should be allowed to freely decide upon their structure and organization.

Insofar as the adopted law disregards the principle of institutional autonomy, it should be considered as contrary not only to religious freedom and but also to the **freedom of association** guaranteed by the Universal Declaration of Human Rights (Article 20), the International Covenant on Civil and Political Rights (Article 22), the American Convention on Human Rights (Article 16), the European Convention on Human Rights (Article 11) and the Charter of Fundamental Rights of the European Union (Article 12).

In its case law, the **European Court of Human Rights** has repeatedly stated that “the autonomous existence of religious communities is indispensable for pluralism in a democratic society” (see eg cases *Hasan and Chaush v. Bulgaria*, *Fernández Martínez v. Spain*). Beyond its long-standing entrenchment within the case law of the European Court of Human Rights (*supra*, see also eg *Advisory Opinion on the status of monastic premises*), the principle of autonomy of religious communities and organizations has been upheld in the European Union (EU) legal order as well as in the various acts adopted within the United Nations treaty bodies and other structures of intergovernmental cooperation.

In EU law, the principle of autonomy of religious institutions and faith-based organizations finds a clear expression in Article 4(2) of Directive 2000/78 establishing a general framework for equal treatment in employment and occupation. Pursuant to this provision, “difference of treatment based on a person's religion or belief shall not constitute discrimination where, by reason of the nature of these activities or of the context in which they are carried out, a person's religion or belief constitute a genuine, legitimate and justified occupational requirement, having regard to the organisation's ethos”. Accordingly, EU law provides for a specific derogation from the principle of non-discrimination for the benefit of faith-based institutions. In its case law, referring, *inter alia*, to Article 10 of the EU Charter on

Fundamental Rights guaranteeing religious freedom, the Court of Justice of the EU has, on several occasions, underscored the crucial role of this derogation in the application of the rules on equal treatment (*Egenberger, IR, Katholische Schwangerschaftsberatung*). Importantly, following the findings of the **European Commission of Human Rights** in the case *Rommelfanger v. Germany*, the **Court of Justice of the EU** explicitly recognized that a Catholic hospital qualifies as a faith-based organization and thus benefit from the special regime grounded in the principle of institutional autonomy (*IR*).

The principle of religious autonomy was also recognized by the **United Nations Human Rights Committee**. In its General Comment No. 22 on Article 18 of the International Covenant on Civil and Political Rights, the Committee highlighted that “the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs” (point 4). Relatedly, it is worth recalling that during the Vienna Conference, the Member States of the **Organization for Security and Co-operation in Europe** unequivocally committed to respect the autonomy of churches and religious communities (the Concluding Document of the Vienna Meeting 1986 of Representatives of the Participating States of the Conference on Security and Co-operation in Europe, principle 16).

Beyond the International Law context, the importance of the principle of religious autonomy in the life of democratic societies has been recognized by the **highest national jurisdictions and constitutional tribunals** on the European continent, as well as on the other side of the Atlantic. The principle of religious autonomy has been upheld on numerous occasions by the German Constitutional Court (February 17, 1965, BVerfGE 18, 385) and more recently by the French Court of Cassation, adjudicating in its most solemn formation (April 4th, 2025, 21-24.439). The constitutional value of the principle was also recognized by the US Supreme Court in the landmark case *Kedroff v. St. Nicholas Cathedral* (November 24, 1952, 344 U.S. 94).

Secondly, and relatedly, we wish to bring to the Constitutional Council’s attention the fact that the adoption of measures likely to impose restrictions on internationally recognized human rights requires, in all circumstances, a preliminary balancing exercise between competing rights and interests. The States are not allowed to make the rights of certain individuals arbitrarily prevail over the rights of other groups within society. They shall seek to reconcile the competing rights and not limit themselves to justifying the predominance of one right over the other.

In the case at hand, the legislature should have established a legal framework governing access to euthanasia and assisted suicide that reconciles the rights of religious institutions with those of individuals wishing to die, while ensuring respect for both. This could have been achieved, for example, by entrusting a public authority with the responsibility of referring the individuals concerned to an appropriate facility. The legislature’s failure to reconcile the competing rights demonstrates that it did not strike a fair balance between the right and interests at stake.

Along similar lines, the imposition of the new obligation on religious associations and faith-based organizations attests to the flagrant infringement of the **principle of**

proportionality which constitutes one of the bedrocks of International Human Rights Law. According to the well-established case law of the international human rights courts, any State measure that restricts an individual's freedom must be prescribed by law, pursue a legitimate aim, and be necessary in a democratic society and proportionate to the legitimate aim pursued. In the present case, the limitation of the religious freedom and autonomy of private institutions is clearly disproportionate as there were alternative, less restrictive means of ensuring access to assistance in dying.

In light of the above, we respectfully urge the Constitutional Council to recognize the threat that the "Law on the right to assistance in dying" poses to religious freedom and to the autonomous existence of faith-based institutions, and, accordingly, to declare the Law contrary to the French Constitution. We firmly believe that the Constitutional Council is well placed to fulfil its constitutional duty to uphold the values of democratic pluralism and the rule of law which have, regrettably, become increasingly vulnerable concepts in modern societies.

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