

DIE WITH DIGNITY: DANIEL KARSAI CASE, EUROPEAN COURT OF HUMAN RIGHTS AND THE BRAZILIAN LAW ON EUTHANASIA

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Abstract: This paper examines the case of Dr. Daniel Karsai, a Hungarian human rights attorney, who suffered from advanced ALS and was seeking euthanasia to die with dignity, in accordance with his spiritual and professional beliefs. However, Hungarian law prohibits euthanasia and imposes extraterritorial jurisdiction, risking prosecution for those assisting in assisted suicide even if it is practiced abroad. Consequently, Dr. Karsai took his case to the European Court of Human Rights (ECHR), arguing that Hungary's total ban on end-of-life decisions violates his fundamental human rights, including the right to self-determination, prohibition of inhuman treatment, and freedom of ideological belief. The reasoning presented by Dr. Karsai and by the Hungarian government along with the decision by the ECHR given on June 13, 2024, will be analyzed. The article also explores the Hungarian legal framework's extraterritorial application, the right to life, the prohibition of torture, and the rights to privacy and freedom of thought under the European Convention on Human Rights. Lastly, using the Brazilian legal framework as an example, it will be argued that the applicant's justifications may be applicable on a global scale, enabling a new perspective of the legal debate around euthanasia and reflecting on the broader ethical and juridical issues surrounding the right to die with dignity.

Keywords: Daniel Karsai; Euthanasia; Die with Dignity; European Court of Human Rights.

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Revista do Centro Acadêmico Afonso Pena, Vol. 29, N. 2, 2024.

ISSN (impresso): 1415-0344 | ISSN (online): 2238-3840

Editor responsável: Karen Mendonça | Revisão: Lais Barreto Barbosa e Otávio Morato de Andrade

Data de submissão: 04/07/2024 | Data de aprovação: 27/09/2024

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MORRER COM DIGNIDADE:

O CASO DE DANIEL KARSAI, O TRIBUNAL EUROPEU DOS DIREITOS HUMANOS E A LEI BRASILEIRA SOBRE EUTANÁSIA

Resumo: Este artigo examina o caso do Dr. Daniel Karsai, um advogado húngaro de direitos humanos que sofria de Esclerose Lateral Amiotrófica (ELA) avançada e buscava a eutanásia para morrer com dignidade, em conformidade com suas crenças espirituais e profissionais. No entanto, a legislação húngara proíbe a eutanásia e impõe jurisdição extraterritorial, colocando em risco de processo aqueles que auxiliam na eutanásia, mesmo que ela ocorra no exterior. Conseqüentemente, o Dr. Karsai levou seu caso ao Tribunal Europeu de Direitos Humanos (TEDH), argumentando que a proibição total da Hungria em relação às decisões de fim de vida viola seus direitos humanos fundamentais, incluindo o direito à autodeterminação, a proibição de tratamentos desumanos e a liberdade de crença ideológica. Os fundamentos apresentados pelo Dr. Karsai e pelo governo húngaro, juntamente com a decisão do TEDH proferida em 13 de junho de 2024, serão analisadas. O artigo também explora a aplicação extraterritorial do marco legal húngaro, o direito à vida, a proibição de tortura e os direitos à privacidade e à liberdade de pensamento previstos na Convenção Europeia de Direitos Humanos. Por fim, utilizando o marco legal brasileiro como exemplo, será sustentado que as justificativas do requerente podem ser aplicáveis em âmbito global, permitindo uma nova perspectiva no debate legal sobre a eutanásia e refletindo sobre questões éticas e jurídicas mais amplas em torno do direito de morrer com dignidade.

Palavras-chave: Daniel Karsai; Eutanásia; morte digna; Tribunal Europeu dos Direitos Humanos.

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INTRODUCTION

Euthanasia may be one of the most controversial topics in social debates, whether from a legal, political, moral or religious point of view. While philosophers since ancient Greece, such as Plato and Epicurus, defended that a painful disease justifies suicide (Goldim, 2000), an idea intrinsically related to a dignified life, opposing arguments to Euthanasia suggest that the legalization could represent a risk to terminal patients, as it may be seen as more convenient to eliminate them rather than care for them (Urban, 2008).

Substantive progress in medicine has made it possible for patients who suffer from degenerative diseases to continue living by maintaining their vital functions, through the usage of artificial ventilation, for instance. This new scenario has created an urgency in the debate surrounding euthanasia and the limits of artificial prolongation of life (Menezes, 2003). Moreover, an issue that has yet to be widely discussed is that the idea that the artificial prolongation of life is not always adequate (i.e., the choice given to the patient to refuse or withdraw life sustaining interventions) is not compatible with the legal treatment often given to physician assisted dying.

This paper discusses the case of Dr. Daniel Karsai, a Hungarian human rights attorney who was in an advanced stage of Amyotrophic Lateral Sclerosis (ALS). He wished to follow his spiritual beliefs, rooted in the martial arts, and professional beliefs in human rights, through euthanasia, which would allow him to die with dignity (Karsai, 2023). The issue lies in the fact that Hungarian criminal law does not allow Euthanasia and has a wide extraterritorial jurisdiction, meaning that those who assist in the process, even if it is performed in a country where the procedure is legal, can be prosecuted. Thus, he submitted his case against Hungary to the European Court of Human Rights (ECHR) in an attempt to fulfill his wish of dying with dignity without worrying about the possibility of whoever helps him to be criminally prosecuted (Karsai, 2023).

The article will analyze the arguments of both sides: Dr. Karsai (the applicant), and the government of Hungary, stated at the Chamber Hearing that took place on November 28th, 2023. After presenting the solid argument built by Karsai, it will be defended that it is possible to transpose his case to other legal systems to argue for the possible unconstitutionality of the prohibition euthanasia in a case like his.

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1. DANIEL KARSAI'S STORY

Dr. Daniel András Karsai, born in 1977, was a human rights attorney, a martial artist, and was diagnosed with Amyotrophic Lateral Sclerosis (ALS) in 2021. He was in an advanced stage of the incurable progressive neurodegenerative disease that consists of the gradual loss of motor neuron function, with an invariably fatal outcome. However, sensory and cognitive abilities, as well as the intellectual functions and consciousness, may remain intact throughout the progression of the disease (Karsai, 2023). Thus, Dr. Karsai's mental faculties were not affected, which means that he was forced to experience the consequences of the disease with a fully lucid mind, in his words, he was "forced to be a silent observer of his existence"³ (European Court of Human Rights, 2023b, minute 31:46).

According to his personal and professional opinion, the total ban on end-of-life decisions in Hungary violated his fundamental human rights, especially the right to self-determination based on human dignity, the prohibition of inhuman and degrading treatment, and the right to freedom of choice of ideological belief. Dr. Karsai considered himself to be a spiritual, emotional and intellectual person, whose worldview rested on the belief in God, human rights and in following the path of the Japanese martial art ju-jitsu Kelemen Ryu, a school officially registered in Japan. As a martial artist, Dr. Karsai stated that his spirituality can be summarized by the aphorism of the founding master of jiu jitsu, Soke István Kelemen: "We practice jiu-jitsu for being able to die like the trees: standing" (Karsai, 2023).

Hungary does not provide a legal remedy for the violation of Dr. Karsai's fundamental rights, which were mentioned above. For this reason, he lodged an application with the European Court of Human Rights in Strasbourg. This application is "not a general plea for a complete legalization on a European level of all forms of end-of-life decisions for all types of individuals concerned" (Karsai, 2023), it is about his right to make the decision. He also aimed to initiate a meaningful and public conversation about the possibility for individuals in the same position as his to make end-of-life decisions (Karsai, 2023).

³ His discourse at the Chamber Hearing in the European Court of Human Rights on November 28th, 2023

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2. PREVIOUS EUROPEAN CASE LAW ON EUTHANASIA

To understand Karsai's application, it is important to address that The European Court of Human Rights has already decided on some other cases regarding euthanasia. In November 2023, the Court launched a factsheet⁴ on those previous decisions that summarizes them (European Court of Human Rights, 2023a).

2.1. Pretty v. The United Kingdom (Application 2346/02)

Ms. Diane Pretty was suffering from motor neurone disease and wanted to have control over the timing and manner of her death in the final stages of the illness. Due to her condition, she was unable to end her life on her own and sought her husband's assistance. She argued that her husband should be assured freedom from prosecution if he helped her die (Millns, 2002). However, assisting suicide is illegal in England, and the authorities denied her request.

Ms. Pretty lodged an application with the European Court of Human Rights against the United Kingdom of Great Britain and Northern Ireland on December 21st, 2001. The Court ruled in favor of the United Kingdom, determining that the Government had not violated the European Convention on Human Rights. Firstly, there was no breach of Article 2 (right to life), as this article does not imply a right to die. Secondly, there was no breach of Article 3 (prohibition of inhuman or degrading treatment), because the State is not required to authorize actions intended to end a life. Finally, the court found no violations of Articles 8 (right to respect for private life), 9 (freedom of conscience), and 14 (prohibition of discrimination) of the Convention (Millns, 2002).

On April 29, 2002, the Court refused Ms. Pretty the right to shorten her sufferable life. A few days later, on May 11, 2002, she died of natural causes due to her disease (Millns, 2002). Millns (2002) concludes that this case had never had a realistic possibility of being ruled in favor of Ms. Pretty "given the way in which those rights were currently posited and interpreted" (Millns, 2002, p.7).

⁴ Factsheet – End of life and the European Convention on Human Rights.

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2.2. Mortier v. Belgium (Application 78017/17)

This case involved the euthanasia of the applicant's mother without informing him or his sister. Despite doctors advising her to tell her children about her request for euthanasia, their mother chose not to do so. The applicant, Tom Mortier, claimed that the State failed to protect his mother's life because the proper statutory procedures for euthanasia were not followed. He also complained about the lack of a thorough investigation (European Court of Human Rights, 2023a).

The Court clarified that the issue was not about the right to euthanasia but whether the euthanasia performed in this case was compatible with the Convention. The Court found no violation of Article 2 (right to life) regarding the legislative framework for euthanasia in Belgium. It concluded that the laws in place were designed to protect the patients' right to life. Thus, it was determined that the euthanasia procedure did not violate Article 2, as it followed the established legal guidelines (European Court of Human Rights, 2023a).

However, the Court found a violation of Article 2 related to the post-euthanasia review process. The State failed to meet its obligations because the Federal Board for the Review and Assessment of Euthanasia lacked independence, and the criminal investigation took too long. Finally, the Court found no violation of Article 8 (right to respect for private life), stating that the doctors had acted reasonably, following the law, confidentiality, and ethical guidelines, in encouraging the mother to inform her children of her decision (European Court of Human Rights, 2023a).

Even though it was stated that the case is not about the right to euthanasia, there was an important precedent set, which was the acknowledgment of a broad discretion of the national legislature to decide whether the procedure is legal. This means that the Convention creates no positive obligation for the State to prohibit or to allow euthanasia.

3. THE CASE KARSAI V. HUNGARY (APPLICATION 32312/23)

Karsai was not physically able to terminate his own life and knew that if someone helped him to do so, this person could face criminal prosecution in Hungary. The lawyer was not content with the idea of choosing between living the final stages of his life in complete suffering or dying knowing that those who helped him complete the euthanasia could be

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prosecuted. He took his case to the European Court of Human Rights, alleging that the prohibition of euthanasia by Hungary, in his situation, would be a violation of his human rights under the European Convention on Human Rights (European Court of Human Rights, 2023b).

On November 28th, 2023, the European Court of Human Rights held a hearing with representatives of the Hungarian Government and Karsai (European Court of Human Rights, 2023b). The following topics will present and analyze the most important arguments brought by both parties in the case.

3.1. Passive personality jurisdiction

Hungarian law does not prohibit suicide, but it does prohibit assisting suicide under any circumstances. As follows, Section 162 of Act C of 2012 on the Criminal Code:

(1) A person who induces or provides assistance for another person to commit suicide is guilty of a felony and shall be punished by imprisonment for one to five years if the suicide is attempted or committed (European Court of Human Rights, 2024a, paragraph 15).

It means that if anyone were to help Karsai to end his life, they would face criminal consequences in Hungary. Daniel Karsai also does not have the option to leave his country to do it, because of the extraterritorial application of Hungarian criminal law. The law applies based on passive personality jurisdiction, which conditions the application only to the victim's nationality:

(2) Hungarian criminal law shall apply to
a) acts committed by persons other than Hungarian nationals abroad if the act
aa) constitutes a criminal offence under Hungarian law and is also punishable under the law of the place where it was committed, (...)
b) acts committed by persons other than Hungarian nationals abroad against a Hungarian national, or a legal person ..., which are punishable under the Hungarian law (European Court of Human Rights, 2024a, paragraph 15).

The applicant claims that if he decided to go abroad to commit euthanasia, not only would the Hungarian who helped him travel face criminal charges, but also his assistants (who could have other nationalities) who would conduct euthanasia in a place where it is permitted (European Court of Human Rights, 2023b). However, the Government affirms that there is

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nothing wrong with the passive personality jurisdiction, which is one of the main types of extraterritorial jurisdiction, even so, the most applied extraterritorial jurisdiction regards crimes committed by Hungarians abroad (active personality jurisdiction).

The issue of the Hungarian citizen who would help the applicant to travel abroad is not a passive personality jurisdiction issue, but an active personality jurisdiction issue. Also, it is suggested that there would be no prosecution against the assistants⁵ in Karsai's case, because the prosecution of specific persons is impossible without international legal assistance and discretionary considering of evidence by the Attorney General (European Court of Human Rights, 2023b).

On the other hand, the applicant demonstrates that there is a real risk of punishment for Karsai's assistants, because double incrimination (the fact that the act is crime in both countries) is not a condition for the extraterritorial application of Hungarian Law, as it is explicitly stated by the Hungarian Criminal Code. It is pointed out that there is no legal basis for the Attorney General to exercise discretionary decisions.

In fact, the explanatory memorandum to the Bill on the Criminal explained that, in the case of crimes committed abroad by a non-Hungarian citizen against a Hungarian citizen, the prosecution is tied to an additional condition, which is a decision by the Attorney General (European Court of Human Rights, 2024a, paragraph 16). Regardless, the criminal prohibition of PAD exists independently of any potential decision not to prosecute or reduction in the penalty prescribed by law. Simply criminalizing an act, regardless of whether an investigation is launched, a conviction is secured, or how severe the punishment might be, constitutes interference, as the mere possibility of being accused of a crime is, by itself, an intrusion (European Court of Human Rights, 2024b, paragraph 6).

The applicant argued that such an interference is not a mere possibility, since Hungarian authorities started to prosecute 483 crimes committed exclusively outside Hungary in the first 10 months of 2023. At the chamber hearing, his representatives stated that:

⁵ The government exemplifies: if Swiss physicians conducted the euthanasia, they would only be prosecuted if their actions violated Swiss law and if the Swiss authorities were ready to cooperate (European Court of Human Rights, 2023b).

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Both Hungarian and foreign people are punishable. But it is easier to punish a Hungarian taxi driver who does not know where he is taking the person as opposed to the physician who necessarily knows that the aim of his assistance is to end the incurable ill person's life (European Court of Human Rights, 2023b).

They also point out that if Karsai chose to go abroad to carry out his euthanasia, he would die knowing that his doctors, friends and family could be prosecuted, which would violate his human dignity. Furthermore, even if going abroad could be a solution, the lawyer said he did not know if he would have enough money to do so, and he believed he had the right to die in his country (European Court of Human Rights, 2023b).

3.2. The right to life - Article 2 of the European Convention on Human Rights

Article 2 of the European Convention on Human Rights brings the right to life and contains the exceptions to when the deprivation of the right to life is not regarded (European Convention on Human Rights, 1950). The Hungarian Government defends that the exceptions contained in Article 2 are the only ones possible, and euthanasia is not one of them. Euthanasia would differ from the possibility of a terminally ill patient refusing life-sustaining treatment. This is not incompatible with Article 2 because it does not involve intentional or negligent deprivation of life, but rather an acceptance that the patient's life cannot be saved (European Court of Human Rights, 2023b).

Hungary claims that the court should follow their decision in *Pretty v. UK*, because the situation is identical, and this was the least controversial approach regarding euthanasia. The Government also brought the decision in *Mortier v. Belgium*, which they consider to be the most controversial approach, because it disregards: Article 6 of ICCPR (1996)⁶, Article 2 of European Convention on Human Rights⁷ and the Court's jurisprudence on the positive obligation to avoid the deprivation of life. Therefore, the Government believes it has a positive obligation under Article 2 to prohibit euthanasia (European Court of Human Rights, 2023b).

Even though the Hungarian government does not agree with the ruling in *Mortier v. Belgium*, which opened for the Member States a margin of appreciation allowing euthanasia by

⁶ Which prohibits the arbitrary deprivation of life.

⁷ List of exceptions.

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additional protocols, the respect for sovereignty should go both ways. Thus, in the Government's opinion, the right to euthanasia does not exist under the Convention, and the legalization of euthanasia should be a decision made by the national legislator. The Court's acknowledgment that all members have an obligation to legalize euthanasia would be problematic, because one may not infer that euthanasia permission is an international law consensus by the recent practice of legalizing it (European Court of Human Rights, 2023b). In this sense, decision favorable to the applicant would mean a violation of Hungarian national sovereignty, once their authorities were in a better position to decide whether to protect the vulnerable from pressure to terminate their life (European Court of Human Rights, 2024a, paragraph 108).

Finally, it is pointed out that, even considering their positive duty to prohibit euthanasia, Hungarian criminal law allows for consideration of the perpetrator's motivations when judging the concrete situation. The actual suffering and wishes of the victim, as well as the danger imposed to society by the offense, will be taken into consideration, because punishment is individualized (European Court of Human Rights, 2023b).

The applicant affirms that euthanasia does not infringe Article 2 of the Convention, because the applicant's life cannot be protected; he is dying anyway. If the only end-of-life decision that is provided is related to treatment, it would mean that a person who is terminally ill but does not yet need life-sustaining treatment would be forced to live under unbearable conditions. In order to maintain his mental health and quality of life, Karsai should have committed suicide while he still could, it is impossible for him to do so now (European Court of Human Rights, 2023b).

The inefficiency of the prohibition of euthanasia is also raised, since it still happens in a gray, non-regulated area. It is pointed out that the Hungarian Constitution Court has never stated that euthanasia is against the Constitution. It only ruled that the present law is also acceptable – a 20-year-old decision. There is no regulation on the Fundamental Law that would prohibit him from making end of life decisions (European Court of Human Rights, 2023b).

The applicant believes that his case is different from the one in *Pretty v. United Kingdom* because there is a legal route for end-of-life decisions in Hungary, but ALS patients are excluded from it, even though they qualify as incurable ill persons unable to care for

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themselves, this was not an issue in the previous case. The Hungarian law would be discriminatory, because the permission for euthanasia should not be based solely on the person's medical condition, once it is the individual, not the disease, that enjoys the protections of the Convention (European Court of Human Rights, 2023b). This issue will be further addressed in topic 4.5.

3.3. The Prohibition of Torture - Article 3 of the European Convention on Human Rights

Article 3 of the European Convention on Human Rights imposes that “No one shall be subjected to torture or to inhuman or degrading treatment or punishment” (European Convention on Human Rights, 1950). Under this article, it is argued that by prohibiting the end-of-life choice, the Hungarian Government subjects Karsai to inhumane suffering without any trace of autonomy in his life. There might be one point when Karsai considers his life without autonomy caused by the disease is not worth living due to the mental and physical suffering (European Court of Human Rights, 2023b).

For the applicant, the right to die without suffering is the right to live without suffering. The Government acknowledges it but suggests that this right shall not be fulfilled by terminating life (European Court of Human Rights, 2023b).

3.4. The rights to privacy and freedom of thought - Articles 8 and 9 of the European Convention on Human Rights

Karsai believes that his right to privacy and family life shall prevail in his situation, once the legal assets mentioned as exceptions in Article 8 of the Convention are not violated by his decision on euthanasia (European Court of Human Rights, 2023b).

There shall be *no interference by a public authority* with the exercise of this right *except* such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others (European Convention on Human Rights, 1950, *emphasis added*).

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The applicant supports that one could choose to live under the circumstances Karsai faced, but the State should never oblige someone to do so. In other words, the State cannot decide the amount of suffering someone should bear (European Court of Human Rights, 2023b). He also defends that his choice of when and how to die would be the expression of his own religious and secular beliefs. It means that his choice would also be protected by Article 9 of the European Convention on Human Rights. The limitation of his freedom of thought (by prohibiting euthanasia) would also not fit into the permitted limitations by Article 9.2 (European Court of Human Rights, 2023b).

The Government treats both arguments as one, because it considers that the philosophical conscience the applicant defends is in essence the supremacy of individual autonomy. As a response, it brings a determinist approach and states that autonomy in a society is fiction, because the personality is shaped by social aspects. It is also mentioned that death would not be into individual autonomy, because it is random and one has no control over it, so the right claimed by the applicant is indeed the right to suicide (European Court of Human Rights, 2023b).

It is declared that, although the applicant considers his case is not an example of the possibilities of limitation of privacy or freedom of thought under Articles 8 and 9, his self-autonomy is limited by Article 17 of the European Convention on Human Rights, which interdicts the abuse of rights:

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform *any act aimed at the destruction of any of the rights and freedoms* set forth herein or at their limitation to a greater extent than is provided for in the Convention (European Convention on Human Rights, 1950, *emphasis added*).

Euthanasia would be excluded from the scope of application of Article 8 due to Article 17's non-destruction clause. Granting permission for euthanasia would aim to destroy the right to life and would be discriminatory, as it is allegedly grounded on ableism (European Court of Human Rights, 2023b).

3.5. Is euthanasia grounded on ableism?

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According to the Hungarian Government, legal permission for euthanasia would institutionalize ableism, because it could mean that a person with disability is better off dead rather than alive. Therefore, a disability should never be grounds for ending someone's life, directly or indirectly, and this is essentially what the legalization of euthanasia would mean, and the law cannot provide this type of assumption. The root of the assumption that euthanasia should be legal would lie in the fact that society prefers to provide for a death with dignity, rather than life with dignity, furnishing accommodations to people with disabilities that would improve their way of life (European Court of Human Rights, 2023b).

However, the applicant states that the case does not raise the issue of ableism because it rejects external views on quality of life. The present case is not about someone who lives with a disability; it is about someone who is terminally ill, whose health conditions will deteriorate to the point where they will be reduced to being a silent observant of their own existence. In the present case it is argued for respect for the autonomous decisions of one person, who should be able to decide for himself only. The decriminalization of Euthanasia is intended to give individuals a free choice to avoid what, in their view, might be an undignified and distressing end of life. It is not a statement that people with a disability should die, it is about providing a choice to someone who suffers a terminal disease and wants to end their life however they decide (European Court of Human Rights, 2023b).

3.6. The prohibition of discrimination - Article 14 of the European Convention on Human Rights

According to Article 14 of the European Convention on Human Rights, “the enjoyment of rights and freedoms (...) shall be secured without discrimination *on any ground*” (European Convention on Human Rights, 1950). The applicant believes that the prohibition of euthanasia in his case would also be a breach of this provision. This is supported by the fact that the choice to self-determinedly die is open to those who by the nature of their disease can terminate or shorten their life by declining life-prolonging treatment⁸, but not to those who do

⁸ On the Court's decision the refusal of life-prolonging treatment is named refusal or withdrawal of life-sustaining intervention (RWI), while choices as euthanasia and assisted suicide are named physician-assisted dying (PAD). Seeking coherency with the Court's discussion, this article will use such terms.

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not require such treatment. The applicant would not fit into this description because life-sustaining may only be needed in the last hours of his life, when he will already have been suffering (European Court of Human Rights, 2023b).

Karsai's defense argues that the two categories of terminally ill patients are in "relevantly similar situations" (European Court of Human Rights, 2023b, minute 44:09). Both groups are in agony, do not have much time to live and suffer from terminal illnesses. Thus, Karsai would be a victim of discrimination under Article 14 of the Convention because the distinction in treatment has no objective or reasonable justification (European Court of Human Rights, 2023b).

On the other hand, the Government affirms that there is no discrimination. It justifies the difference by stating that the right of people in terminal conditions to refuse treatment does not equate to the right to decide when and how to die, but rather to decide how not to die. For the Government, they simply may choose to die in a natural way, without medical interference (European Court of Human Rights, 2023b).

According to the Government, the possibility of refusal of life-sustaining treatment is not against Article 2 of the European Convention on Human Rights. It is stated that the refusal of life-prolonging treatment, often called passive euthanasia⁹, is not a type of euthanasia because there is no negligent or intentional deprivation of life, and it does not involve an active behavior by a doctor to take the patient's life. As a simple acceptance that life cannot be saved, passive euthanasia would be fundamentally different from euthanasia, which is the intentional deprivation of life on account of the perceived value of that life. Therefore, from a legal point of view, the differentiation would be needed because it is both reasonable and necessary (European Court of Human Rights, 2023b).

3.7. Other end of life decisions

⁹ In passive euthanasia, the person carrying out the act refrains from doing something with the direct and immediate intention of causing death at the patient's request. The refusal of life-prolonging treatment or RWI, the term used by the Court, would be a form of passive euthanasia. Another type of passive euthanasia, not used by the Court in the judgement, would be orthothanasia, in which a decision is made not to artificially extend the life process beyond natural standards (Andrade, 2020, p. 120-121; European Court of Human Rights, 2024a, paragraphs 44-57)

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When replying to the answers from the judges, the Hungarian Government gave the floor to a neurologist who has already treated ten patients¹⁰ with ALS. His most important point was that there are some end-of-life decisions permitted in Hungary and the applicant could rely on them instead of euthanasia. Those decisions are divided between negative (to stop the treatment, such as the refusal to antibiotics, to ventilation support or artificial ventilation) and positive (continuous deep sedation, pain killers, muscle relaxers) decisions. He argues that the main reason for them to be permitted and a better option is that those decisions are reversible, while euthanasia is not (European Court of Human Rights, 2023b).

According to the applicant's defense, this would not be a reasonable solution, because the palliative continuous sedation, for instance, is an option that appears only hours before death and normally comes with the refusal of ventilation. The applicant, in this case, would need to choose between losing his consciousness and his autonomy for his last moments or experiencing further suffering. They conclude by saying that Karsai cannot be forced into this dilemma (European Court of Human Rights, 2023b).

4. THE COURT'S DECISION

Released on 13 June 2024, the ECHR's Decision (with a majority of 6 votes to 1) was not favorable to the applicant. It was declared, by the majority, that the complaints under Article 8 and under Article 14 in conjunction with Article 8 were admissible. However, it was decided that there was no violation of Articles 8 (right for private and family life) and 14 (prohibition of discrimination) of the European Convention on Human Rights regarding the Hungarian limitation imposed on the end-of-life decision (European Court of Human Rights, 2024a).

4.1. No violation of article 8 of the Convention

First, it is important to state that part of the arguments held by the Court was based on a judgment of convenience. They claim that most of the members of the Council of Europe still prohibit euthanasia, and that the State still possesses discretion to decide on this matter, once it is a morally and ethically sensible topic (European Court of Human Rights, 2024a).

¹⁰ A considerably large number given the rareness of the disease.

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We believe that the fact that euthanasia is prohibited in most of the countries does not necessarily mean that this prohibition is juridically acceptable under the Convention, regarding Karsai's case. Also, it is essential to address that a decision favorable to the applicant would not totally breach the national legal provisions which disallow euthanasia. On the contrary, the Court analyzed a singular and very specific¹¹ case in which such disallowance (of the end-of-life decision) would mean the violation of fundamental rights, but this would not lead to positive obligation of wide legalization of assisted suicide around Europe.

Notwithstanding, the ECHR stated that, in the present case, Karsai's mental capacity and his true wish to shorten his suffering were not contested. The focus of the prohibition is not related to the individual protection of the applicant against self-deprivation of life, but to the social implications that the flexibilization of legislation could lead to. Although the Court does not accept the Government's claim that euthanasia is grounded on ableism, it emphasizes the risks of abuse and the pressure over terminally ill patients to choose to terminate their life, making it difficult to guarantee that their decision is genuine and free from external influence. Thereby, the possible general consequences taken in consideration lead the Court to consider that the State must have a significant margin of appreciation to analyze and balance out the social implications of the allowance, as opposed to the individual interest of those who wish to follow through with assisted suicide (European Court of Human Rights, 2024a).

Regarding the applicant's claim that other end of life decisions would not alleviate his unbearable suffering, the Court considers that, once he did not specifically allege that the choices available in Hungary were inadequate, his personal preference to refuse them does not oblige the authorities to offer other alternatives or to legalize euthanasia. The applicant also claims that options, such as deep sedation, would only be available too late, which would expose him to unbearable existential suffering. The ECHR's answer consists in the idea that existential suffering is part of the human condition, and that medical science will probably never eliminate all aspects of suffering. Besides, it is a personal experience, which makes it not eligible for an objective evaluation (European Court of Human Rights, 2024a).

¹¹ The specificity elements are brought by judge Felici as: (1) the established prognosis of certain death; (2) the inexistence of effective cure for this disease; (3) the imposition of unbearable suffering by the disease; (4) the keeping of intellectual lucidity in the final stages of life (European Court of Human Rights, 2024b).

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The conclusion of the Court is that the criminal prohibition to euthanasia in Hungary does not exceed the margin of discretion of the State and does not violate Article 8. Despite recognizing the growing trend toward the liberalization and flexibility of euthanasia, the Court reiterates that “the Convention has to be interpreted and applied in the light of present-day conditions. The need for appropriate legal measures should therefore be kept under review (...)” (European Court of Human Rights, 2024a, paragraph 167).

4.2. No violation of 14 in conjunction with Article 8 of the Convention

Retaking Karsai’s argument over discrimination, he alleged that Hungarian legislation treated differently the terminal patients that could only accelerate their death through the physician-assisted dying (PAD) from the ones that, by nature of their disease, could do it through refusal or withdrawal of life-sustaining intervention (RWI). According to him, denying access to PAD, his only available option to implement the end-of-life decision, while allowing others in a similar situation to have access to RWI was discriminatory and unjustified (European Court of Human Rights, 2024a).

According to the Court’s jurisprudence, for a matter to be under Article 14, there must be a distinction in treatment between people in analogous situations regarding their rights under the Convention. If such distinction has no objective and reasonable justification, it is considered a discriminatory treatment. The ECHR acknowledged the Government’s argument that RWI and PAD are acts inherently different in terms of causality and intention: once RWI is the acceptance that a life cannot be saved, PAD is the intentional and deliberate deprivation of life caused by a professional intervention. This justification is considered by the Court to be reasonable and objective, therefore the decision is that there is no violation of Article 14 in conjunction with Article 8 by Hungary (European Court of Human Rights, 2024a).

4.3. The dissenting vote

As already mentioned, the final decision was given by a majority of 6 votes to 1. Judge Felici had a dissenting opinion apart from the other judges and it will be analyzed from now on. Felici disagrees with the absence of violation of Articles 8 and 14 of the Convention. He argues that the singular situation of the applicant imposes on him unbearable suffering and the

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rights to self-determination and human dignity must allow for a person under those conditions to choose PAD. He also points out that Karsai acknowledges the fact that the permission to euthanasia lacks legislative regulation to avoid the risk of abuse and that the applicant does not plead a general right to PAD, “but rather the specific and circumstanced right of a terminally ill patient who wishes to die to access a remedy responding to his desire to end his life.” (European Court of Human Rights, 2024b, paragraph 3).

Furthermore, the dissent criticizes the Court's reliance on the availability of palliative care as a sufficient measure for the applicant. The judge highlights that while palliative care can alleviate physical pain, it does not address the existential suffering experienced by the applicant, who feels trapped and devoid of meaningful existence. The experts consulted indicated that there are no effective treatments for such existential suffering, underscoring the necessity of recognizing the applicant's right to PAD to preserve his dignity (European Court of Human Rights, 2024b).

Lastly, the dissenting judge contests the Court's reasoning regarding the distinction between patients requiring life-sustaining treatment and those who do not. It is argued that this differentiation leads to unjust discrimination against terminally ill patients like the applicant, who cannot access PAD exclusively due to their specific medical condition.

The minority opinion judge argues that the applicant's case presents a chance to develop new jurisprudence that recognizes both a positive and negative obligation of the State under Article 8. Therefore, the Court should have been more progressive in interpreting the Convention as a “living instrument”, considering the applicant's right to self-determination and dignity (European Court of Human Rights, 2024b, paragraph 1). The judge concludes that the Court missed an opportunity to advance a more humane and rights-respecting approach to end-of-life care by not finding a violation of both Articles 8 and 14 in conjunction with Article 8 (European Court of Human Rights, 2024b).

5. THE BROADNESS OF KARSAI'S REASONING: BRAZILIAN LAW CONTEXT AS AN EXAMPLE

The arguments presented by Karsai are strong, important to encourage the discussion about euthanasia, and not only juridically convincing under the European Human Rights law,

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but also applicable to other legal systems that are based on democracy and on the respect for human dignity. There are some conditions that such systems must attend to be able to accommodate, more directly, Karsai's defense, those would be: a) the recognition of the right to freedom and a private life; b) the recognition of human dignity; c) the prohibition of torture; d) the rejection to discrimination; and e) euthanasia (or PAD) must be prohibited while passive euthanasia (or RWI) is permitted.

The reasons raised previously can contribute, for instance, to the Brazilian juridical debate regarding death with dignity. Brazilian Constitution protects human dignity (Article 1, III), the rights to individual autonomy and freedom of thought (Article 5, VI), and prohibits torture (Article 5, III) and discrimination (Article 3, IV) (Brazil, 1988). Brazil is also a party to the American Convention on Human Rights that protects human dignity while prohibits torture (Article 5); repudiates discrimination (Article 1.1); and recognizes the right to personal liberty (Article 7) (Organization of American States, 1969)¹².

Besides being able to find constitutional and conventional guarantees in the Brazilian system analogous to the ones that support Karsai's case, Brazil also allows the refusal of medical treatment (RWI) by terminally ill patients but does not guarantee the right to death with dignity to ALS patients, who, as already explained, are only entitled to RWI choices in the final hours of their life. It will be argued that it is possible to transpose Karsai's reasoning to the Brazilian juridical arena to defend the inadequacy of the prohibition of euthanasia in such situations.

In the context of Brazilian law, the general understanding is that the act of ending someone's life (committing euthanasia) is considered homicide (Porto; Ferreira, 2017). Thus, it is not possible for a doctor to perform medically assisted suicide, for there is no such exception to the rule mentioned above. The debate regarding euthanasia is not only judicial, but also medical. The Brazilian Code of Medical Ethics, Article 41, prohibits physicians from shortening a patient's life, even if the patient himself requests it (Conselho Federal de Medicina,

¹² Brazilian Law is subject to control of conventionality, which would be "the analysis of the compatibility of national actions (acts or omissions) in light of international standards" (Ramos, 2016, p. 17). This means that if the prohibition of euthanasia for ALS patients can be considered (by a national or international court) to be violating the American Convention on Human Rights.

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2010). Nonetheless, the legislator recognized that specific situations demonstrate a lower social reprehensibility of this conduct, indicated by the fact that the criminal code punishes more lightly the crimes in which the motive is of relevant moral value (Brazilian Criminal Code, Article 121, §1º). This provision is usually applied to euthanasia, when it meets the following criteria: the individual acts for mercy, at the request of the victim, who is accountable and of legal age, to shorten his unbearable physical suffering, due to a serious illness (Porto; Ferreira, 2017).

Besides that, according to Resolution 1.805/2006 of the Federal Medical Council:

On the terminal phase of severe and incurable illnesses, it is permitted for the doctor to suspend proceedings and treatments that prolong the patient's life, guaranteeing the necessary care to alleviate symptoms that lead to suffering, in the perspective of a comprehensive assistance, respecting the will of the patient or their legal representative (Conselho Federal de Medicina, 2006).¹³

This means that in Brazil, orthothanasia (or passive euthanasia) is legal, and further manifests the lower probability of euthanasia, even though the procedure has not reached legalization. Even though it is a crime, many jurists advocate in favor of the right of a person who is experiencing immense unending suffering, to choose whether they would like to die. The judge of the Federal Supreme Court, Luis Roberto Barroso, in his vote on the “Mandado de Injunção” 6.825/DF¹⁴, makes great points regarding the fundamental right to die with dignity. He points out that even though it cannot be acceptable that the State authorizes the right to take the life of someone, life in agony cannot be a duty or an obligation. On the case of assisted suicide, the idea of dignity as personal autonomy prevails, and everyone has the right and is responsible for making their own choices regarding their existence and should not be forced to endure immense suffering for a long period of time, incapable of controlling their own body. Thus, the judge highlights that when two fundamental rights of the same person are in conflict, the State should also regard personal autonomy when balancing them (Brazil, 2019).

Inspired by Daniel Karsai's defense, Brazilian jurists can, for instance, develop an argument that would claim the recognition that there is a constitutional positive obligation to

¹³ Our translation.

¹⁴ ‘Mandado de Injunção’ is the constitutional remedy available to those who consider themselves harmed by the absence of a regulatory norm that makes the exercise of constitutional rights and freedoms unfeasible (Fernandes, 2020, p. 787-791).

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permit euthanasia in cases like his. Thus, it is reasonable to argue that the prohibition of euthanasia in a case like Karsai's under Brazilian law would be unconstitutional or unconventional, because it: (a) violates human dignity and is a type of degrading treatment; (b) violates the right to privacy (existential autonomy, liberty) and the freedom of thought; (c) is discriminatory, since passive euthanasia is allowed.

The main difference between Brazil and Hungary regarding the provisions on the case refers to the extraterritorial application, once double incrimination is (with only a few exceptions¹⁵) always a condition for applying Brazilian criminal law, as cleared by Article 7 of the Brazilian Criminal Code (Brazil, 1940; Galvão, 2013). This means that if a Brazilian person suffering from ALS decides to go to Switzerland (where euthanasia is legal) they would not have to worry about the possibility of whoever helped them to be criminally prosecuted.

The discussion regarding euthanasia has strengthened in Brazil due to the passing of writer Antonio Cícero. He suffered from Alzheimer's disease and went to Switzerland with his partner to undergo the euthanasia procedure, for he was unable to do the things he loved but was lucid enough to recognize what the illness had taken from him. He has left a moving letter, stating that his life had become unbearable due to his disease. In the letter, Cícero declared that he hoped to have lived with dignity and wished to also die with dignity (BBC NEWS, 2024). This case, however, did not raise any issues about the legality of his, his partner's or his physicians' actions, since, as discussed, the Brazilian extraterritorial application of criminal law is not as wide as Hungary's.

Such a difference does not prevent the transmission of the reasoning presented by Karsai, but rather strengthens it. The fact is someone wealthy, as the writer, has the possibility to go abroad to end their life with dignity. Nevertheless, another person, in the same health conditions, who does not possess the money to do the same, does not have this choice. This situation demonstrates another facet of the discrimination of the law that prohibits euthanasia in any case in the Brazilian legal system. Not only the law discriminates, by entitling certain people with the right to a choice about their death, due to the nature of certain diseases, but also due to the individual economic aspects.

¹⁵ Such as crimes against the life or liberty of the President, against the Brazilian State, public administration, and genocide (Brazil, 1940).

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From the Brazilian example, we can conclude that Daniel Karsai, despite not having his rights recognized by the ECHR, launched an important debate around euthanasia and other forms of PAD. New arguments are presented, and they point to the incongruence of a legal system that allows passive euthanasia while prohibiting euthanasia in cases of terminally ill patients, for whom RWI decisions would not be available. The argument against discrimination is very strong, because there is no reasonable justification to differentiate the two types of patients based solely on execution refinements of the end-of-life decision: by an action or an omission. This case has brought new perspectives related to the concept of life, human dignity, private life, and discrimination, pointing the way toward more progressive ethical thinking, lawmaking and judicial decisions around the globe.

CONCLUSION

Doctor Daniel Karsai has spent his life fighting for human rights and kept doing so despite his illness. His application to the Court of Strasbourg has spiked a much-needed conversation in society regarding human dignity, not only in Hungary but worldwide. He has made his case notorious, has given many interviews and has been active on social media, constantly spreading awareness on the inhumane way that people with ALS, or similar diseases, are treated by the Government. They are bound by the law, forced to endure pain with no legal way to end it.

Furthermore, this paper has shown that the Government's line of reasoning in the trial in the European Court of Human Rights is essentially rooted in the legislative discretion of each State to decide on the possibility, or not, of euthanasia. However, it is possible to infer that the arguments presented by the Hungarian Government demonstrate that its main interest is in protecting a person's vital functions to the detriment of their actual dignity and personal autonomy. This fact is emphasized by the Government's claim that a terminally ill patient (whose life cannot be saved) can refuse life-sustaining procedures, which ultimately accelerates their death. Yet a person in a similar situation, terminally ill and whose life cannot be saved, must continue to suffer until their natural death.

Karsai died in September 2024 and could not fulfill his wish since the European Court of Human Rights missed its opportunity to develop new jurisprudence regarding end-of-life

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decisions, which would improve human rights applicability (Thorpe, 2024). However, the discussion that arose from his case can develop human rights on an international level by launching the understanding that life is not simply a vital function but must be lived with dignity, that arises fundamentally from self autonomy and non-discrimination. Even though his thesis did not prevail, Karsai launched a fundamental discussion that, as this article tried to highlight through the Brazilian example, can help people in a similar position to have recognized their wish and right to die like the trees, standing.

REFERENCES

ANDRADE, Otávio Morato de. The "Right to Die": Aspects of International Legalization of Euthanasia. **De Jure**: Revista Jurídica, Belo Horizonte, v. 19, n. 35, p. 114-137, 2020.

BBC NEWS (Brasil). Suicídio assistido: quais países permitem procedimento feito por escritor brasileiro Antonio Cícero na Suíça. **BBC NEWS** [Internet], 23 out. 2024. Available at: <https://www.bbc.com/portuguese/articles/cz6jx3nl3x8o>. Access: 3 Dec. 2024.

BRAZIL. **Criminal Code**. Decree-Law No. 2,848 of December 7, 1940.

BRAZIL. Constitution (1988). **Constitution of the Federative Republic of Brazil**. 2023.

BRAZIL. Supreme Federal Court. **Regimental Appeal on the Writ of Injunction 6.825/DF**. Rapporteur: Min. Edson Fachin. Judgment: April 11, 2019.

CONSELHO FEDERAL DE MEDICINA. **Código de ética médica**: resolução CFM nº 1.931, de 17 de setembro de 2009. Brasília: Conselho Federal de Medicina, 2010. Available at: <https://portal.cfm.org.br/images/stories/biblioteca/codigo%20de%20etica%20medica.pdf>. Access: 5 Dec. 2024.

CONSELHO FEDERAL DE MEDICINA. **Resolução CFM nº 1.805**, de 9 de novembro de 2006. Diário Oficial da União [Internet]. Brasília, n. 227, p. 169, 28 November 2006. Seção 1. Available at: <https://www.cremesp.org.br/?siteAcao=PesquisaLegislacao&dif=s&ficha=1&id=6640&tipo=RESOLU%C7%C3O&orgao=Conselho%20Federal%20de%20Medicina&numero=1805&situacao=VIGENTE&data=09-11-2006>. Access: 3 Jul. 2024.

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COUNCIL OF EUROPE. **European Convention on Human Rights**, 1950. Available at: https://www.echr.coe.int/documents/d/echr/convention_ENG.

EUROPEAN COURT OF HUMAN RIGHTS. Case of Dániel Karsai v. Hungary. **Application no. 32312/23**. Judgment of 13 June 2024a. Available at: <https://hudoc.echr.coe.int/eng?i=001-234151>. Access: 1 Jul. 2024.

EUROPEAN COURT OF HUMAN RIGHTS. Case of Dániel Karsai v. Hungary. **Application no. 32312/23**. Judgment of 13 June 2024b. Dissenting Opinion of Judge Felici. Available at: <https://hudoc.echr.coe.int/eng?i=001-234151>. Access: 1 Jul. 2024.

EUROPEAN COURT OF HUMAN RIGHTS. **Factsheet – End of Life and the European Convention on Human Rights**. Press Unit, November 2023a. Available at: https://www.echr.coe.int/documents/d/echr/fs_euthanasia_eng. Access: 25 May 2024.

EUROPEAN COURT OF HUMAN RIGHTS. Karsai v. Hungary (no. 32312/23). **Chamber hearing** - 28 November 2023b. Available at: <https://www.echr.coe.int/w/karsai-v-hungary-no-32312/23->. Access: 25 May 2024.

FERNANDES, Bernardo Gonçalves. Curso de Direito Constitucional. 12^a. ed. rev. Salvador: Jus Podivm, 2020, p. 787-791.

GALVÃO, Fernando. **Direito Penal: Parte Geral**. 5^a. ed. São Paulo: Saraiva, 2013, p. 174-177.

GOLDIM, José Roberto. **Breve Histórico da Eutanásia**, 30 November 2000. Available at: <https://www.ufrgs.br/bioetica/euthist.htm>. Access: 3 Jul. 2024.

KARSAI, Dániel. The Right To Die Like The Trees: Standing, **VerfBlog**, 2023/11/03. Available at: <https://verfassungsblog.de/the-right-to-die-like-the-trees-standing/>. Access: 25 May 2024.

MENEZES, Rachel. Tecnologia e “Morte Natural”: o morrer na contemporaneidade. **Physis: Revista De Saúde Coletiva**, 13(2), 367–385, 2003. Available at: <https://www.scielo.br/j/physis/a/stmwsH7tkhHyb8DzKBJChSM/#>

MILLNS, Susan. Death, Dignity and Discrimination: The Case of Pretty v. United Kingdom. **German Law Journal**, Volume 3, Issue 10, October 2002, E4. DOI: <https://doi.org/10.1017/S2071832200015443>.

ORGANIZATION OF AMERICAN STATES. American Convention on Human Rights (Pact of San Jose, Costa Rica), 1969.

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Julia Fonseca Salomão

PORTO, Carolina Silva; FERREIRA; Clécia Lima. EUTANÁSIA NO DIREITO PENAL: OS ASPECTOS JURÍDICOS DO HOMICÍDIO PIEDOSO. **Interfaces Científicas - Direito**, Aracaju, v. 5, n. 2, pp. 63-72, feb. 2017. Available at: http://www.mpsp.mp.br/portal/page/portal/documentacao_e_divulgacao/doc_biblioteca/bibli_servicos_produtos/bibli_boletim/bibli_bol_2006/IF-dir_v.05_n.02.06.pdf. Access: 30 jun. 2024.

RAMOS, André de Carvalho. The conventionality control Control of Conventionality and the struggle to achieve the final definitive interpretation of human rights: the Brazilian experience. **Revista IIDH**, 62. San José, IIDH, 2016, pp. 11-32.

THORPE, Nick. Campaigner who ignited euthanasia debate in Hungary dies. **BBC**, 30 set. 2024. Available at: <https://www.bbc.com/news/articles/c07npl5gyrno>. Access: 27 nov. 2024.

UNITED NATIONS. **International Covenant on Civil and Political Rights**. Adopted on 16 December 1966 by General Assembly resolution 2200A (XXI).

URBAN, Cícero de Andrade. A questão da eutanásia no Brasil. **Conselho Regional de Medicina do estado do Paraná**, 9 June 2008. Disponível em: <https://www.crmpr.org.br/A-questao-da-eutanasia-no-Brasil-13-669.shtml>. Access: 3 Jul. 2024.