



National  
Council of  
Ethics for the  
Life Sciences

**118/CNECV/2022**

**OPINION 118/CNECV/2022 ON BILL 95/XV/1  
- MANDATORY REFERENDUM ON THE  
DECriminalISATION OF  
MEDICALLY ASSISTED DEATH**

July 2022



## **OPINION 118/CNECV/2022 ON BILL NO. 95/XV/1 (CH) - MANDATORY REFERENDUM ON THE DECRIMINALISATION OF MEDICALLY ASSISTED DEATH**

### **Executive Summary**

The National Council of Ethics for the Life Sciences (CNECV) was asked for an opinion on Bill no. 95/XV/1 (CHEGA political party) on the compulsory holding of a referendum on medically assisted death (also referred to as medical assistance in dying - MAID).

Although the Bill falls within the scope of medically assisted death, its main question refers to the requirements of mandatory holding of a referendum to change the "legal *status quo*" of central questions constitutionally consecrated as fundamental rights, in this case the right to life.

The report supporting the opinion of the CNECV highlighted two fundamental questions regarding the Bill. First and foremost, the inviolability of human life, an argument expanded on by the Council in previous reflections and about which several considerations can be made: (1) the risk of it being a totalizing argument that would be immediately called into question by confrontation with others - as is the case with the discussion on autonomy - since in concrete terms no value or right is absolute, (2) the very concept of inviolability applied to life as having various interpretations, including that of the right to life being converted into a duty to live at any cost and (3) the implications regarding relativistic versions on the inviolability of life. In fact, only openness to reflection allows for deep reflection on complex issues, such as MAID.

On the other hand, the obligation to hold a referendum on complex bioethical questions, which the Bill advocates for legislative interventions aiming at the decriminalisation of MAID. This mechanism of direct consultation struggles to circumscribe complex issues, with clarity, precision and objectivity, only admitting answers of "Yes" or "No" under the terms of the Constitution of the Portuguese Republic. Such issues imply, however, a deepening of the discussion and an increase in information and literacy of citizens in bioethical matters, as a necessary means to ensure participation that reflects the diversity of views existing in civil society. This



condition had already been highlighted in Opinion 117/CNECV/2022 on the ethical requirements for decision-making of public interest within the life sciences.

Thus, the CNECV, considering that the referendum is one of other possible forms of participatory democracy and that the referendum cannot be legally imposed with reference to concrete issues,

is of the opinion that

- It is desirable to deepen participatory democracy in issues related to life sciences, based on the development of literacy in ethical matters;

- The referendum, as an instrument of participatory democracy, cannot be legally imposed.

Lisbon, 8 July 2022.

National Council of Ethics for the Life Sciences.

The President, Maria do Céu Patrão Neves.

Rapporteurs: Inês Godinho and Miguel Oliveira da Silva.

The present opinion was approved on 8 July 2022, at the 267th plenary meeting of the CNECV.