DIGNITAS

To live with dignity

To die with dignity

AIMS

PHILOSOPHY

ACTIVITIES

Quality of Life, Freedom of Choice, Self-Determination
and Self-Responsibility in Life and at Life's End

For connecting Suicide Attempt Prevention,
Planning ahead, Palliative Care und Aid in Dying

To improve Care and Public Health

DIGNITAS – To live with dignity – To die with dignity
P.O. Box 17, 8127 Forch, Switzerland

Telephone +41 (0) 43 366 1070 Telefax +41 (0) 43 366 1079
E-mail: dignitas@dignitas.ch Internet: www.dignitas.ch

facebook.com/dignitas.ch twitter.com/dignitas_org

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DIGNITAS – To live with dignity – To die with dignity (this the correct and full name; 'DIGNITAS' is just a short version; used in this booklet for easier reading) is a Swiss help-to-live and right-to-die non-profit member society founded on May 17th 1998 in Forch, near Zürich, by Ludwig A. Minelli, an attorney-at-law specialising in human rights. In accordance with its articles of association, DIGNITAS has the objective of ensuring a life and an end-of-life with dignity for its members and of helping other people to benefit from these values. This is reflected in the full name and the logo of the organisation: DIGNITAS – *To live with dignity – To die with dignity*. As one can see, the aspect of a dignified life comes first. It is DIGNITAS' first and most important task to look for solutions which lead towards re-installing quality of life so that the person in question can carry on living. An important part to improve quality of life is the freedom to decide over one's own life and end-of-life. Based on this insight, DIGNITAS advices and guides also on different options for a humane end of suffering and life, in an open-outcome and comprehensive manner.

Today, DIGNITAS, together with its independent sister association DIGNITAS-Germany in Hannover, which was founded on 26th September 2005, has some 13,000 members in 103 different countries around the world. DIGNITAS has an office in Forch and a house near Zürich where accompanied suicides may take place, for members from abroad and for Swiss residents if they cannot be helped at their home. There are 50 people working for the two DIGNITAS organisations, almost all of them part-time, comprising board members, an office team doing mainly advisory work and a team of companions / befrienders who assist with accompanied suicides.

In fact, DIGNITAS' work extends far beyond "assisted dying" and comprises suicide attempt prevention, litigation and political work to further develop laws

regarding human rights concerning freedom of choice and self-determination in life and in "last matters", planning ahead with healthcare advance directives, counselling in palliative care, and so on. DIGNITAS is a protection of life and quality-of-life organisation.

One third of DIGNITAS' daily "telephone work" is advisory work for individuals from around the world who are not members of the association. This extends beyond suffering people who seek help, to medical professionals, lawyers, students, researchers, etc. Additionally, DIGNITAS runs a free-of-charge online forum. Set up as a self-help community, it allows people with suicidal thoughts to share their feelings and support one another to cope better in hard times. It is taken care of by a professional mediator and two IT technicians.

Furthermore, DIGNITAS assesses requests for the preparation of an accompanied suicide for those members who send the relevant documents, and tries to obtain

a "provisional green light" from an independent Swiss medical doctors for such an accompaniment with DIGNITAS. The option to bring a dignified end to one's suffering and life at a self-chosen moment in time (if quality of life does not allow one to carry on anymore) is the "emergency exit door" which helps people to feel better because they regain independence and control over their destiny. That control reduces the pressure on them to resort to a lonely and risky suicide attempt (of which the vast majority fail, with dire consequences).

DIGNITAS does not restrict its services to Swiss residents. DIGNITAS, as a human rights oriented' organisation, finds that it is discriminatory to base access to a self-determined accompanied end of life on country of domicile or residence and citizenship. The ECHR condemns such discrimination in article 14. Therefore, the logic consequence for DIGNITAS was and is

1) to allow non-Swiss residents and non-Swiss citizens to access the possibility of an assisted/accompanied suicide in Switzerland and

2) to advocate for implementation of 'the last human right' (such as Swiss practice) in other countries too, at least and as far as in such country a majority of the public wishes for such personal end-of-life-choice.

This is why DIGNITAS ignores political borders and works internationally. Since the start, DIGNITAS has engaged in many court cases which concerned questions around "last human rights", especially at the European Court of Human Rights in Strasbourg. Furthermore, DIGNITAS has engaged in law-making discussions and proceedings by handing in submissions and law proposals in many states.

DIGNITAS works on overcoming several barriers: breaking the taboo on "being tired of life", suicide, suffering and death; questioning set legal situations and moral conceptions; adapting these to human rights; and implementing freedom of choice, self-determination, independence through providing information and observing self-responsibility.

DIGNITAS' philosophy

On 16th May 1998, the general assembly of Exit (Swiss German part) in Zürich took place. The director of Exit at the time, Peter Holenstein, had proposed to the board of Exit that the organisation should engage in the reduction of the number of suicides and suicide attempts. However, conservative forces within Exit could not understand such a progressive approach to widen the focus to public health and developments in society in general. With an aim to deselect Holenstein, circles around the board arranged for an additional 300 Exit members to attend the general assembly. Peter Holenstein was booed down and his fellow combatant Ludwig A. Minelli, at the time legal counsellor of the director of Exit, had no chance to speak at the assembly. The proposal went down in the noise and Holenstein was deselected.

Having lost, that small group of visionaries decided to stick to the concept of suicide attempt prevention, to add legal further development and, in the light of the circumstances, to realise it in a new non-profit member society. Overnight, Ludwig A. Minelli wrote the statutes, and on Sunday 17th May 1998 the member society "DIGNITAS – To live with dignity – To die with dignity" was founded. One day later, the organisation was already operational.

DIGNITAS took on distinct philosophical principles. The starting point of the principles guiding the work of DIGNITAS is the progressive-liberal position that in a free state any freedom is available to a private individual provided that availing oneself of that freedom in no way harms public interests or the legitimate interests of a third party. This signifies:

- Respect for freedom and autonomy of the individual as an enlightened citizen;
- Defending this freedom and autonomy against third parties who try to restrict those rights for some reason, whether ideological, religious, political, economical or greed for power;
- Humanity which seeks to prevent or alleviate inhumane suffering when possible: probably the most shining example of this in our history, on a national and international level, led to the founding of the Red Cross;
- Solidarity with weaker individuals, in particular in the struggle against conflicting material interests of third parties;

- Defending pluralism as a guarantee for the continuous development of society based on the free competition of ideas;
- Upholding the principle of democracy, in conjunction with the guarantee of the constant development of fundamental rights.

In a liberal-democratic state, rights and freedoms enshrined in the constitution and/or human rights charter cannot and shall not be limited to points listed therein and exclude others, which over time gain significance. Constitutions and the European Convention on Human Rights are "living instruments": barriers based on its contents are to be regularly reviewed by case law and, if need be, further developed.

People are not property of the state. They are the bearers of human dignity, and this is characterised most strongly when a person decides his or her own fate. The state or its individual authorities may not determine the fate of its citizens. As the British philosopher and economist John Stuart Mill put it: *"Over himself, over his own body and mind, the individual is sovereign".*

The freedom to shape one's life includes the freedom to judge one's own quality of life. To personally shape one's own life, including the option to determine the time and manner of one's own end in life, is a basic freedom and human right. This was acknowledged by the Swiss Federal Supreme Court on 3rd November 2006 and the confirmed by the European Court of Human Rights, judgment no. 31322/07, HAAS v. Switzerland, dated 20th January 2011, paragraph 51:

"In the light of this case-law, the Court considers that an individual's right to decide by what means and at what point his or her life will end, provided he or she is capable of freely reaching a decision on this question and acting in consequence, is one of the aspects of the right to respect for private life within the meaning of Article 8 of the Convention"

Since then, several courts have confirmed this right, and to resort to assistance provided voluntarily by third parties for this purpose.

Departing on such a "long journey" entails responsibility. All individuals are part of society. Therefore, one should not set out on this journey without careful preparation, nor without having said appropriate goodbyes to loved ones and friends.

The goal of DIGNITAS

No non-Swiss person should be forced to travel to Switzerland in order to have a self-determined, self-enacted, safe and accompanied ending of his or her suffering. Everyone should have access to such an option in his or her home, as an additional choice alongside palliative care measures (including palliative/continuous deep sedation), having treatment discontinued based on instructions given

in personal health care advance directive, or the accompanying of dying individuals.

The core goal of DIGNITAS is to become obsolete, to disappear as soon as possible. When regulations regarding freedom of choice and self-determination in life and life's end similar to those available in Switzerland are implemented in all other countries, nobody will have to turn to DIGNITAS and Switzerland anymore. Nobody shall become a "freedom tourist" or "self-determination tourist"' (which is certainly a more appropriate term than the tabloid-style "suicide or death tourist"). And when the work of organisations like DIGNITAS has been implemented in the health care and social welfare system, such organisations will no longer be necessary.

As long as many countries' governments and legal systems disrespect their citizens' basic human right to choice and self- determination in life and life's end, ban the topic with a taboo, and force them either to turn to lonely risky suicide attempts or to travel to Switzerland for ending their suffering instead, DIGNITAS will serve as an information provider and "emergency exit".

Suicide attempt prevention

Suicide attempt prevention is a sort of roof over the daily work of DIGNITAS. What happens to a person in a reduced physical and emotional state who does not feel that their needs are being met, does not feel that they are being noticed and taken seriously and who plunges into a downward spiral of failure and dwindling hope for improvement? What if the condition further deteriorates until he or she sits at the bottom of a deep hole and only sees the sky up above – and heaven's exactly where he or she wants to go?

Until now, national and international debates on assisted suicide and/or (voluntary) euthanasia have hardly recognised the fact that, apart from the small number of individuals who, due to their deteriorating health, wish to end their suffering with one of the few available methods (palliative care, assisted/accompanied suicide, rejection of treatment and refusal of food and drink, etc.), there is a problem on a much larger scale which questions the sanctity of life: the general problem of suicide and suicide attempts.

The World Health Organisation (WHO) estimates that 700,000 people worldwide die by self-harm every year. This is one person every 45 seconds. Yet, whilst according to the WHO a majority of suicides occur in low- and middle-income countries, many high-developed seemingly 'rich' countries show a high number of deaths by suicide too: in the small country Switzerland, in 2023 there were 995 deaths by suicide according to the Federal Office of Statistics. Do not forget that this number is based 'only' on officially recorded suicides: sometimes suicides

are not recognised and therefore not registered statistically as such, for example self-inflicted deadly accidents by car.

In response to a request regarding information on suicide and suicide attempts in Switzerland lodged by Andreas Gross, a former member of the Swiss National Council, the Swiss government rendered its comments to the parliament on 9th January 2002: it explained that, based on scientific research (National Institute of Mental Health in Washington and others), the number of *attempted* suicides would be 10 to 50 times higher than the number of "successful" and such officially known suicides. Based on the number of 1,350 registered suicides in 1997, Switzerland might have up to 67,000 suicide attempts in that year. Thus, the risk of failure of an individual suicide attempt is up to 49:1.

Multiplying the death by suicide figures with the research leads to worrying high suicide attempt figures: up to 35 million people worldwide, and some 49,700 (in 2023) in Switzerland. Even if the number of suicide attempts is "only" ten times higher than the officially registered suicides, there are still 7 million people worldwide who attempted suicide, 6,3 million of whom have to bear the consequences of having failed; in Switzerland some 8,955. And it is important to remember that third parties also have to bear consequences: relatives and friends, police, emergency medical doctors, firefighters, train drivers…

Quite a number of commonly heard phrases – like "a suicide attempt is normally just a cry for help", "80% of people who have survived a suicide attempt would not like to repeat it", "not all people who are hospitalised due to self-harm may have intended to die by suicide" – are simply 'thought savers' (an expression of Lincoln Steffens, 1866-1936, American Journalist). 'Thought savers' are a way to stop thinking about a particular problem without solving it. With a 'thought saver', one may get rid of the problem, belittling it so that it appears no longer worth thinking about. It is quite significant that such 'thought savers' are very common in relation to the suicide and suicide attempt problem. Hardly anyone asks, for instance, when speaking of a 'cry for help': why does this person feel the need to undertake the risk of a suicide attempt in order to find help, instead of talking to other people and saying that they need help? The answer is: in the special case of a suicidal situation, the reason for the 'cry for help' without words is the risk of losing one's liberty (due to being put in a psychiatric clinic) or the risk of not being taken seriously or being rejected (deprived of affection) if one talks to someone else about suicidal ideas.

The negative and tragic result of 'clandestine' suicides is diverse:

- enormous costs for the public health care system, especially costs arising from caring for the invalid, costs for the public sector (rescue teams, police, coroner, etc.) and costs for a country's economy;

- high risk of severe physical and mental injuries for the person who attempts suicide;
- psychological problems for those unintentionally but directly getting involved in the suicide attempt;
- psychological problems for next-of-kin and friends of a suicidal person after their attempt and their death;
- personal risks and psychological problems for rescue teams, the police, etc. who have to attend the scene at or after a suicide attempt.

The consequence of failed suicide attempts, expressed in costs which society has to bear, is enormous. The study „The price of despair – On the costs due to suicides in Switzerland" ("Der Preis der Verzweiflung – Über die Kostenfolgen des Suizidgeschehens in der Schweiz"), based on 1,296 suicides registered in 1999 in Switzerland, suggests a yearly cost of over 65 million Swiss Francs due to police operations, work of the authorities, property damage, death-related costs such as paid-out life insurances and pension, etc. With suicide attempts, in addition to the work of police and authorities, further factors have to be taken into consideration: ambulance treatment, stays of different length in hospitals, work of the intensive care team, support care due to possibly lifelong disability, therapies, etc., which incur costs. The study takes 30,000 suicide attempts as a base whilst assuming that half of these people would not suffer health consequences. However, even this figure resulted in approximate costs of 2,369 million Swiss Francs.

Some governmental programs seem to focus very much on narrowing access to the means of suicide and a lot of money is spent on constructing fences and nets on bridges and along railway lines. This is the usual suicide prevention approach which is generally about:

- restricting access to means of suicide by deliberate political decisions or by developing improved technological processes;
- sometimes rather hesitant safety measures in places (so-called 'hot-spots') where many suicide attempts have taken place;
- limiting public awareness of suicides in the media and pushing for the issue of suicide to be kept private.

It is provocatively said that suicide prevention deals mainly with the reduction of deaths due to suicide, aiming at one death less in the statistics. To achieve this, it is sufficient if the suicide attempt fails. Obviously, this is a rather limited, statistical approach which – to little surprise – has not significantly reduced the number of suicide attempts. And, what is worse, the taboo surrounding suicide is usually upheld.

As long as suicide prevention is an issue for people and groups who oppose in-

dividual freedom of choice and self-determination regarding life and one's own end in life, and reject the idea of suicide *a priori*, little will change in this regard.

Suicide *attempt* prevention reaches further. The starting point of effective suicide attempt prevention is looking at the root of the problem: the taboo surrounding the issue, the stigmatization, the wall of fear of embarrassment, rejection and losing one's independence.

In the light of the enormous number of committed/fulfilled and failed suicide attempts and their negative effects, measures towards an improved program of suicide and suicide attempt prevention are of the essence.

No matter whether the risk is 49:1 or 'only' 9:1, it indicates that in countries which do not have doctor-supported accompanied suicide or voluntary euthanasia, an individual can only make use of the right to end his or her life self-determinedly by accepting such a high risk of failure and therefore an unbearable (further) deterioration of his or her state of health, also harming close persons such as family and friends and third persons. This signifies that the right to end one's life self-determinedly and by own action under the conditions currently found in most countries is neither practical nor efficient.

Access to different forms of assisted dying has a suicide attempt preventive effect, and this is a reason why DIGNITAS implemented this aspect into its work right from the start.

Switzerland has a progressive-liberal legal position which allows access to an accompanied/assisted suicide not only – as is the case in the US State of Oregon and a few more – for individuals who are considered to be terminally ill and within a few months of dying.

There are research publications which point out that a considerable number of "do-it-yourself" (DIY) suicides and attempts occur amongst severely ill and dying people. Narrow eligibility criteria or banning assisted dying forces people to find alternative ways to control the end of their lives. This results in suicide attempts and deaths that are needlessly violent, unsafe and damaging, also to those who are left behind.

By comparing statistics published by the Swiss Federal Statistical Office and the US-Oregon Health Authority, it can be observed that in Switzerland the number of DIY-suicides has decreased significantly since the 1980ies, whilst this is not the case in Oregon. To compare the rate, suicides per 100,000 people, for the year 2020: 9,5 in Switzerland versus 18,3 in Oregon. This indicates that, amongst other factors, broader eligibility criteria for assisted dying results in more effective reduction of the number of DIY-suicides and suicide-attempts.

The prospect of having access to a 'real option', that is an actual way out with a self-determined, safe and accompanied end of suffering, can enable people to refrain from a suicide attempt with insufficient, risky or even dangerous methods,

because it alleviates the individual's pressure of desperation and feeling of "there is no way out".

Moreover, DIGNITAS' many years of experience show that only a very small number of people who enrol as a member take advantage of the option of an accompanied suicide. A study, including investigation into 387 files of DIGNITAS members by a German student, found that only around 14% of all those who receive a "provisional green light" actually make use of an accompanied suicide. Overall, only 3% of all DIGNITAS-members resort to this option.

The starting point of successfully protecting life and safeguarding and improving the quality of life is a progressive-liberal approach which includes respect for the individual and involves accepting a paradox: if risky lonely suicide attempts with their dire consequences are to be prevented, suicide as such has to be accepted at a fundamental level. The taboo surrounding the issue – the wall of fear of embarrassment, rejection and losing one's independence – has to be lifted.

Naturally, someone who wishes for an end of his or her suffering and life has personal reasons. If these reasons are taken seriously and if the individual is supported to scramble out of his deep hole, he regains farsightedness. This indicates that the person has to be met where he or she is. And this in turn demands opening the door to a conversation without moralising, without taboo and without paternalism.

Opening that door leads to a conversational atmosphere in which the individual can discuss the reasons why they do not see sufficient quality in their life anymore and why they do not want to continue living. In general, everyone wants to go on living and to enjoy sufficient quality of life. People only wish to end it all because they cannot see how to go on living in the specific situation which they feel to be unbearable and unacceptable.

It is for these reasons that DIGNITAS has developed a comprehensive open-outcome advisory concept.

DIGNITAS' advisory concept

Anyone may get in touch with DIGNITAS, no matter what their reason. And in the frame of DIGNITAS resources, *everyone* receives advice and support. This includes guidance on health care advance directives (advance decisions), directing people at an acute risk of suicide towards crisis intervention centres, giving guidance on palliative care, providing information about other helping organisations as well as expert medical doctors, etc.

DIGNITAS focuses on giving advice adapted to the individual situation. The common denominator for anyone doing such advisory work should be:

1) break the taboo surrounding suffering, suicide and death;

2) be there and listen;

3) take people seriously;

4) talk openly and honestly with them;

5) do not shunt them into the "mentally-ill corner" or stigmatise them in any other way;

6) talk in a fact-orientated way, especially about suicide and the high risks of 'clandestine' suicide attempts; and

7) provide advice in a comprehensive and open-outcome manner, that is in all directions.

What does this mean?

Break the taboo Take the dark sides of life for what they are, that is, part of life. That's simple and difficult at the same time. It is essential to think about and to be at ease with these matters oneself before meeting people who are possibly afraid to talk about them.

Be there and listen A GP once told us the story of an elderly regular patient who came into his practice complaining about a bit of knee pain. Being under time pressure, the GP did not pay much attention and simply gave him some salve to soothe the pain before rushing on. The old man went home and committed suicide. This is surely an extreme case but it indicates that, to hear the story *behind* the story, one needs to listen very carefully and ask questions.

Take people seriously Even if the explanation about suffering given by the person who seeks help sounds absurd, it is essential to take notice and to take him or her seriously. It is that person's reality and they should be met in that place. The most incredible stories come from life itself.

Talk openly and honestly Quite obviously, the person seeking help makes contact with a professional because he or she wants and needs expert know-how. Making light of the problem and attempting to diminish its seriousness, "verbal dilution", is counterproductive. The disappointment of finding out that one has not been dealt with honestly by a professional to whom one has given one's trust hurts even more when reality catches up, and it undermines one's ability to trust in future.

No stigmatisation Tired of suffering = tired of living = suicidal = depressed = mentally ill. This chain of thinking is a widespread and *false* conclusion. It is fuelled by a "psychiatrisation" in medicine and everyday life, such as can be seen from the latest expansion of the Diagnostic and Statistical Manual of Mental Disorders DSM-5. Quite unnecessarily, the person seeking help is "classified", "labelled", declared to be sick. However, the person should be met at eye level!

Talk about facts The taboo surrounding suicide leads to a lot of suffering. Concealing, trivialising or scandalising the issue is out of place because suicide and suicide attempts have been – and still are – a reality, a possible human act.

Comprehensive and open-outcome The phrase "informed consent" includes the word "informed". In talking with the person who seeks help about *all* the possible options in a specific situation of life and life's end without having a particular outcome in mind, empowers the person to think about all of the options *and* one respects the person as an individual.

This approach can be applied to all people seeking information and help, no matter whether they are perfectly healthy, suffering from a physical or an emotional problem, or facing death.

Honest and professional advisory work on preparing for the known and the unknown in life and at life's end is comprehensive and open-outcome, respects the individual, and does not impose the interests of the advisor on the person seeking advice.

It is our task, together with the person who seeks help, to look for sensible, reachable solutions to his or her problem and to provide such – even if the solution in certain circumstances is assisted dying. Only such advisory work may be called comprehensive and open-outcome. And the fact that DIGNITAS not only *talks* about "it", but under certain circumstances *really* makes possible the option of an accompanied suicide, is an important element of authenticity, the value of which should not be underestimated.

Practical and legal advice for the healthy, anyone who is suffering, the relatives and friends of (suffering) individuals, medical professionals, and, of course, guidance for suicidal individuals takes up a large part of DIGNITAS' resources. Besides this advisory work, there are further fields of work in which DIGNITAS engages.

DIGNITAS' further developing the law 1: taking matters to the courts

Legal further development is an important part of DIGNITAS' work. Presenting legal questions in proceedings in order for Courts to deal with them allows further development of the right to live and die with dignity.

In 1977, many years before he founded DIGNITAS, Ludwig A. Minelli founded the "Swiss Society for the European Convention on Human Rights" (SGEMKO), a non-profit organisation spreading information about the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and carrying out litigation to further develop human rights issues. With SGEMKO, he brought some of the first cases from Switzerland to the European Court of Human Rights (ECtHR) in Strasbourg – and won. And, even at that time, he and one of his colleagues – attorney-at-law Manfred Kuhn, at that time vice president of Exit

(German part of Switzerland), found that the right to life as stated in article 2 of the ECHR should have been complemented by the right to die, which later led to cases on this issue.

In 1999, Minelli published an article arguing this point in the Swiss Journal of Jurisprudence SJZ. Had he known that, later, the courts would follow his arguments…

In Switzerland, the ECHR came into force 28th November 1974. According to its article 34, it allows individuals, groups of individuals, and NGOs to file a complaint. As to Swiss law, winning a case at the ECtHR would give the right, within 90 days, to request a revision of the Swiss Supreme Court decision being appealed against.

Today, the jurisdiction of the European Convention on Human Rights covers all of Europe except for Russia, the Vatican, Belarus and Kosovo.

In 2004, a man called DIGNITAS and explained that he was suffering from bipolar – manic-depressive – disorder, that he had attempted (and obviously failed) suicide twice, that he had been an in-patient in psychiatric clinics nine times and that he wanted DIGNITAS' help to end his suffering. At the time, knowing how difficult it was to obtain consent from Swiss medical doctors for an accompanied suicide in the case of a patient who was perfectly lucid yet suffering predominantly from a psychiatric ailment, DIGNITAS asked him whether he would be able to pull through at least for some time and challenge the Swiss legal *status quo* by requesting the means to suicide – 15 grams of the barbiturate Sodium Pentobarbital – directly from the Swiss health authorities and, if that was not accessible, to resort to the courts.

This was the starting point of legal proceedings conducted by DIGNITAS at several levels of jurisdiction which led to the earlier mentioned judgments by the Swiss Federal Supreme Court in 2006 and the European Court of Human Rights (ECtHR) in 2011. In these judgments, for the first time, the freedom and right of an individual to decide on time an manner of his or her own end in life has been acknowledged as protected by article 8 of the Convention.

Opponents of "freedom of choice in last issues" may claim that there is no right to die. The ECtHR decision brought about by DIGNITAS has proven them wrong, certainly within the jurisdiction of the European Convention on Human Rights.

According to its preamble, the ECHR treaty is not only an instrument,

"*securing the universal and effective recognition and observance of the rights therein declared*"

but also aiming at

"*the achievement of greater unity between its members and that one of the methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms*".

In other words: there is room for development.

Since its founding, DIGNITAS has led or been involved in dozens of pathbreaking court cases. An example is the aforementioned Haas case, another the Carter vs. Canada case, which on February 6th, 2015 led to the unanimous 9:0 decision by the Canadian Supreme Court to struck down the country's Criminal Code laws prohibiting doctor-assisted suicide. A further important success for DIGNITAS was the landmark decision of February 26th, 2020 by the Federal Constitutional Court of Germany which declared unconstitutional and thus void § 217 of the German Criminal Code ("geschäftsmässige Förderung der Selbsttötung"): this law provision had criminalised repeated and thus all professional advisory work and assistance for a self-determined end of life, even affecting palliative care doctors (!). The two DIGNITAS-associations had filed several constitutional complaints. The Court found:

"The general right of personality (Art. 2(1) in conjunction with Art. 1(1) of the Basic Law, Grundgesetz – GG) encompasses a right to a self-determined death. This right includes the freedom to take one's own life and, as the case may be, resort to assistance provided voluntarily by third parties for this purpose. Where, in the exercise of this right, an individual decides to end their own life, having reached this decision based on how they personally define quality of life and a meaningful existence, their decision must, in principle, be respected by state and society as an act of autonomous self-determination."

On December 11th, 2020, a further case by DIGNITAS led to a similar judgment by the Constitutional Court of Austria, which such brought about a voluntary assisted dying law for Austrians as of January 1st, 2022.

DIGNITAS works with court cases, with an aim to implement and/or enhance freedom of choice in life and at life's end for the public who wishes to have such choice.

Further developing the law 2: contributing to law-making proceedings

Another important line of DIGNITAS' legal-political activities is engaging in legislative proceedings. DIGNITAS wrote in-depth submissions for public inquiries / consultations of the Swiss Federal Council, the Crown Prosecution Service of

England and Wales, the Scottish, Canadian, two Australian and New Zealand Parliaments, etc. Many expert committees and members of parliaments have visited DIGNITAS over the years.

In addition, DIGNITAS drafted a comprehensive law proposal to regulate assisted/accompanied suicide by non-profit associations (Accompanied Suicide Act – ASA) based on the "Swiss model", which was presented to several countries' Parliamentary committees.

Lobbying with the aim of convincing politicians and so winning positive parliamentary votes is a challenge which takes a lot of effort, both in financial and time resources. In the UK for example, this approach had failed for a long time. Trying to introduce an assisted dying law via Parliaments implies also a dilemma: in order to increase the chance of obtaining a majority in favour, the assisted dying law proposed often needs to be "downsized" in scope – to a narrow model – so as to increase the chances of convincing some very sceptical minds.

As a result, this leads to suggesting law models giving only few individuals actually access to voluntary assisted dying, such as the "US-Oregon model" which makes physician-supported assisted suicide legal for individuals with a terminal illness diagnosis and 6 months' life expectancy only. This model has several drawbacks:

- it discriminates against people who are not terminally ill and not expected to die within the next few months; so their human right to a self-determined, self-chosen end of their life is disrespected;
- it puts medical doctors in the awkward situation of having to estimate how long their patient might live, something which no one can do with certainty, and thus an increasing number of doctors are critical of this estimate clause;
- it does not help those people who (also) deserve respect and compassion: people suffering from long-term illnesses such as motor neurone disease, multiple sclerosis, multiple system atrophy, Parkinson's, etc.;
- it does not have the suicide attempt preventive positive effect a truly humanitarian and progressive end-of-life-choice model would have. It can be observed that in Switzerland the number of lonely do-it-yourself suicides decreased significantly over many years – whilst in Oregon it has not.

One may argue that an assisted dying law like the US-Oregon model is way better than not having a law giving at least some choice for suffering individuals. But why put up with "second best" when there are more progressive-liberal law models in place which give people more choice and can be used as an example, such as in Switzerland, the Benelux countries and Canada? It should be all about focusing on implementing real freedom of choice offering care and compassion for those suffering. Generally, DIGNITAS will not settle for second best but aims for

maximum self-determination and freedom of choice in life and life's end, as only this approach takes people's wishes at life's end seriously, reduces the number of high-risk suicide attempts and improves public health.

The right and the freedom to decide on the time and manner of one's own end in life is already in place. They have to be put into practice and further developed by law so as to receive voluntary help – at least to the extent that the state is not allowed to obstruct access to professional help for this. According to Law Professor Axel Tschentscher at the University of Berne in Switzerland, *„it is for the State to justify narrowing access to medication for assisted dying but not for the citizen to plea receiving access to it."*

Human rights especially aim at protecting minorities and the possibly weak. They must be fought for and defended, again and again, for the benefit of the citizens. In a democratic society, parliament and government have not received their power for their self-interest and/or by grace of God. They have, only temporarily, been given such power by the citizens. This distinction should be kept in mind by elected politicians just as much as by citizens.

The legal base of the Swiss system of assisted suicide

For many centuries, due to religious-fundamentalist intolerance and abuse of clerical power, people who had committed suicide were often buried outside of graveyards and sometimes their families were punished, for example by seizure of their property. It was the development of humanism and thinking based on science as well as the growing separation of church and state in the wake of enlightenment, in the 17th/18th century, which brought about the decriminalisation of suicide.

Towards the end of the 19th century, expert committees and parliament discussed a unified Swiss criminal law and with this also the issue of assistance in suicide. It was found for example that a merchant who would have lost his good reputation/dignity due to bankruptcy should be able to ask a friend, who is officer in the army, to let him a gun and to show him how to use it so that he could end his suffering and life so as at least to save his honour. Such an assistance – the officer letting the gun and ammunition and giving instructions – was even considered to be a 'Freundestat', an 'act of friendship', which should not be punished. Up until the end of 1941, each Canton (each Swiss State) had still its own criminal law.

In 1918, this thought was adapted in the draft for a Swiss-wide criminal code and finally came into force on 1st January 1942 as article 115, stating:

"Any person who for selfish motives incites or assists another to commit or attempt to commit suicide shall, if that other person thereafter commits or attempts to commit suicide, be liable to a custodial sentence not exceeding five years or to a monetary penalty."

The progressive-liberal base was kept, assistance in suicide remained and still is today exempt from punishment, but it was specified by the aspect that assistance done out of selfish motives should be a criminal act.

As examples for such selfish motives the Federal Council stated: if someone intended to inherit 'earlier' or if someone intended 'to get rid' of having to support a family member. Clearly, the aim was and is to sanction 'pushing' a person towards suicide out of a very immoral motivation.

The legal consequence, in the sense of '*e contrario*': to help (assist) another person to commit suicide is not an offence and therefore not punishable as long as (s)he who helps does not have selfish motives in the sense of the examples stated above. Of course, in these specific circumstances of being assisted, the person self-determinedly ending his or her life must not lack capacity of judgment, in plain words: must be competent.

An interesting aspect is that in Switzerland, from 1848 until 1973, the Constitution generally prohibited priests/theologians to be elected into the Federal Parliament. From 1848 until 1920, the Liberal Party was the main force in the Swiss Federal Council and Parliament – at a time, when the big codifications of law such as the civil code, criminal code, etc. were drafted. One may dare to claim that these two aspects were influential for the still valid liberal-progressive approach in Switzerland.

Aspects of a severely ill and suffering individual was discussed in context of article 114 – *"Homicide at the request of the victim"* – of the Swiss Criminal Code. This article 114 prohibits voluntary euthanasia, but offers relatively mild penalty if violated:

"Any person who for commendable motives, and in particular out of compassion for the victim, causes the death of a person at that person's own genuine and insistent request shall be liable to a custodial sentence not exceeding three years or to a monetary penalty."

Note: because English is not an official language of Switzerland, the two translations of articles 115 and 114 are not official legal text; however, they are nonetheless provided on the website of the Swiss Federal Council.

Based on article 11 of the Swiss Federal Act on Narcotics and Psychotropic Substances and article 26 of the Swiss Federal Act on Medicinal Products and Medical Devices a Swiss medical doctor may prescribe narcotics under certain circumstances, mainly in line with the 'recognized rules of medical science' respectively 'recognized rules of pharmaceutical and medical science'. Such rules are always evidence based, which means they stem from natural scientific reasons.

The Swiss Academy of Medical Science SAMS in 2018 issued "medical-ethic guidelines" on "management of dying and death", saying that a medical doctor, based on a personal decision, may assist in suicide. However, these guidelines

cannot be ‘recognized rules of pharmaceutical and medical science’ because ethics cannot be evidence based;

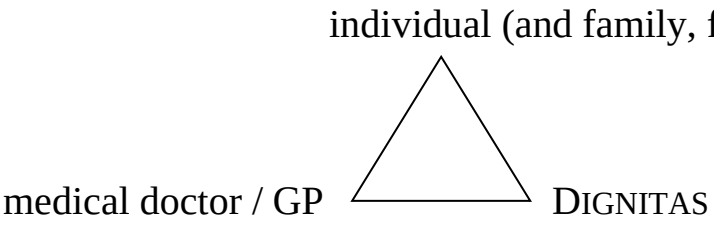
In 2022, these guidelines by the SAMS have been updated and taken on by the Swiss Medical Association (FMH) which is the union of medical doctors in Switzerland, comprising some 95% of Swiss medical doctors and being the roof for some 70 organisations. Only then the SAMS guideline become statutory regulation for medical doctors who are a member of the FMH. The guidelines are available, though questioned due to several court judgments.

De facto, ‘recognized rules of medical science’ do not exist in Switzerland and both the SAMS and the FMH are private institutions which do not have any power to set law. But existing Swiss law and court judgments set a sufficient and safe framework, acknowledged by the Swiss Government.

The practical side of the Swiss system

If a Swiss medical doctor is prepared to assist a patient for an accompanied suicide, it is his/her responsibility to check whether the patient is capable of judgment, that is, whether his or her wish to die is well-considered and not due to external pressure. The legal obligation of prescription of the substance additionally implies that the doctor must provide his/her patient with comprehensive information on options and alternatives and thus personally carry out an investigation / assessment.

Based on the legal situation and this common denominator, in Switzerland, a system like a triangle developed:



In the ideal case, a relation develops between the patient, his or her treating medical doctor and a private not-for-profit member’s society enabling assisted/accompanied suicide such as DIGNITAS; this, in the sense of an interdisciplinary broad-based dialogue. That means: a patient experiencing severe suffering, maybe a terminal illness, would be of course under treatment and care of his general practitioner (GP) / medical doctor and/or specialists. In the frame of this relation, the patient could express the wish for an assisted suicide. If the medical doctor agrees, he or she would assure the patient to help in this venture and suggest that the patient make contact with an organisation like DIGNITAS. Sometimes, a GP would contact DIGNITAS directly, explaining the situation of his or her patient. In any case, the patient would engage in a relation with an organisation like

DIGNITAS no matter whether the medical doctor agreed or not with the wish for an accompanied suicide.

The core point is that a medical doctor prescribes 15 grams of Sodium Pentobarbital (20 grams in rare cases of severe overweight of the patient) and gives the prescription to an employee of DIGNITAS. The employee would then fetch the medication from a pharmacy. Generally, the patient never receives the prescription or the medication to take it home. There are a few pharmacies which store/provide Sodium Pentobarbital. The medication is then used in the frame of an assisted/accompanied suicide, usually at the home of the patient living anywhere within Switzerland, in the presence of one or more employees (sometimes called companions or befrienders) of the organisation. Family and friends are always encouraged and welcomed not only to attend but in fact to get involved in the preparation procedure right from the start. If the patient does not make use of the medication on that particular day, an employee of DIGNITAS brings it back to the pharmacy.

There is the possibility that a medical doctor prescribes Sodium Pentobarbital *and* does the assistance/accompaniment himself/herself. However, today, being that the professional handling of requests for assisted/accompanied suicide and advisory work on alternative options such as palliative care and continuous deep sedation, voluntary refusal of food and fluids (VRFF), etc. is established with not-for-profit members' societies like DIGNITAS, medical doctors will rather leave the handling of preparation and accompaniment to such organisation.

Each case of assisted/accompanied suicide is immediately reported to the Swiss police. Under the observance of state attorneys (Switzerland does not have 'coroners') and the involvement of a specially trained medical doctor (usually, but not necessarily, one from an Institute of Forensic Medicine) an investigation takes place. In order to make the situation up front less difficult for the authorities, DIGNITAS provides them with the medical file, documents signed by the patient, the passport/ID, etc.

Since 1998, DIGNITAS has conducted over 3,900 accompanied suicides in co-operation with Swiss medical doctors. Never has there been a conviction of violation of article 115, let alone article 114, of the Swiss Criminal Code.

In conclusion, in Switzerland, assisted/accompanied suicide – also for patients suffering from psychiatric ailments, as long as they do not lack capacity of judgment – basically has been possible since 1942, even though there is no special law/act, regulating the details of such procedure, such as it is the case for example in The Netherlands, Spain, Belgium, Canada, New Zealand and several US- and Australia states.

Basing on freedom, self-determination and self-responsibility, this practice was

approved of in a people's vote by a clear majority of 84% of the voters in the Canton of Zürich, on 15 May 2011.

The relatively progressive-liberal Swiss practice of many years disproves allegations of a "slippery slope", and it shows that assisted suicide does not become a "norm" or even a "duty". Because, the number of those actually making use of an accompanied suicide is small in relation to those who request it, and even smaller, only at 2.4%, in relation to the overall number of deaths in Switzerland.

Physician-supported assisted/accompanied suicide by DIGNITAS

"One should not set upon a long journey without careful preparation and one should not set upon such journey without having appropriately said goodbye to loved ones", says the founder of DIGNITAS.

Swiss law allows to conduct assistance in suicide. Therefore, under certain circumstances, in the case of persistent and unbearable suffering for example due to severe or terminal illnesses, unendurable disabilities, unbearable pain etc. DIGNITAS can arrange the option of a legal accompanied suicide upon the well-considered, endurable and explicit request of the individual who wishes to end his suffering and life. There are many prerequisites linked to the arrangement of such a self-determined and self-enacted ending of life, such as:

- the person has to be a member of the DIGNITAS-association
- the DIGNITAS Patient's Instructions (Advance Decisions) provided upon registration as a member is essential
- the person must be mentally competent – not only at the time of the request but also in the last minute during the final act
- the person has to be able to carry out the final action which brings about death by his or her self.
- the person must send a written request to DIGNITAS comprising

  1) a letter of motivation explicitly asking DIGNITAS to prepare an accompanied suicide,

  2) a CV/biographical sketch providing personal background information and the family situation, and

  3) comprehensive historical and up-to-date medical reports showing diagnosis, treatments tried, medication, development of the illness, etc.
- DIGNITAS can assess such request and look for a Swiss medical doctor (independent of DIGNITAS) who also assesses the request and possibly grants a "provisional green light" – without this doctors' consent there will not be an accompanied suicide

- the person will have at least two face-to-face consultations with the Swiss doctor after her or she provided the "provisional green light"

In principle, this option and these prerequisites apply to competent individuals suffering from psychiatric ailments too, and a judgment of the Swiss Federal Supreme court has confirmed this. Contrary to widely-held opinions, people suffering from mental health problems normally have sufficient capacity of discernment to decide whether they would like to continue living or, instead, to end their suffering and life. Therefore, and as a general rule, they are entitled to ask for an accompanied suicide and should receive assistance just as much as people suffering from physical health problems. As a specific prerequisite, a special in-depth medical appraisal by a psychiatrist is always required, and it must indicate that the person's wish to end their life is not a symptom of a treatable psychiatric ailment but is based upon the self-determined, carefully reflected and stable decision of a competent person.

When the person has received the "provisional green light" and wishes to advance to an accompanied suicide, there are many details to be discussed with DIGNITAS such as a possible date, how to travel, where to stay, which family members and friends will travel with the person, etc. Additionally, further administrative effort and paperwork is necessary: for example, people from abroad have to provide several official civil registry documents such as a birth certificate, proof of residency, etc. – Swiss law states that these have to be newly issued papers – so that the Swiss Civil Registry Office can register the demise and issue a death certificate.

Only if all the requirements are fulfilled can a Swiss medical doctor write the prescription which allows DIGNITAS to procure the necessary medication for the accompanied suicide. It is a lethal overdose of a fast-acting barbiturate, Pentobarbital. After taking it, the patient falls asleep within a few minutes and drifts into a deep coma which passes peacefully and painlessly into death.

It is important to remember that, from the start of the proceedings right up to the very last day, access to the accompanied suicide could be denied, not only by the medical doctor in one of the consultations but also by DIGNITAS – if, for example, the person shows severe signs of reduced mental capacity to the point at which the legal prerequisite for legal assistance in self-determinedly ending life is no longer met. In the course of the preparation proceedings, DIGNITAS and the Swiss

medical doctors will establish several times whether the individual meets the preconditions which must be met for assistance with suicide, and whether the wish to die reflects the settled and declared will of the individual.

Gathering information, reflecting, writing the request, obtaining all the relevant documents, arranging the journey, talking it all over with loved ones: it all takes time and personal effort.

As pointed out earlier: DIGNITAS' many years of experience shows that only a very small number of people who enrol as a member take advantage of the option of a doctor-supported accompanied suicide, and even after several decades of such practice being in place in Switzerland, only around 2.4% of all deaths take place by this option.

This clearly shows that allowing the self-determined ending of suffering and life by a safe means within a carefully-prepared safe arrangement is, for many, an important "emergency exit door": one is glad that it is there – and hopes to never need it. It does not lead to a slippery slope or an erosion of the sanctity of life, such as often claim opponents of such self-determination and freedom of choice. Making possible such professionally accompanied self-deliverance *is* suicide attempt prevention in action.

In the words of British conductor Sir Edward Downes, during his consultation with the Swiss medical doctor granting him the definite "green light" for his accompanied suicide in 2009: *"This is a form of evolution, of humanity."*

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