

Medically assisted suicide and limits to regional autonomy: commentary on Constitutional Court ruling no. 204/2025.

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In ruling no. 204 of 2025, the Constitutional Court ruled on the legitimacy of Tuscany Regional Law no. 16 of 14 March 2025, entitled 'Organizational procedures for the implementation of Constitutional Court rulings 242/2019 and 135/2024', challenged by the Prime Minister for violation of Article 117 of the Constitution.

The state's appeal is based on the assumption that the regional law, although classified as organizational and temporary, would have an impermissible impact on areas falling within the exclusive legislative competence of the state, resulting in an inadmissible regionalization of principles that the Constitutional Court had set out in an additive and minimal manner pending the intervention of the national legislature. This risk had already been pointed out in the aftermath of the approval of the Tuscan law, with particular reference to the tendency to transform into positive regional regulations jurisprudential content that is still intrinsically provisional and in any case not directed at regional legislators[1].

In particular, the appeal challenges the entire regional law on the grounds that it violates Article 117, second paragraph, letter l) of the Constitution, in relation to civil and criminal law, and Article 117, second paragraph, letter m) of the Constitution, concerning the determination of essential levels of service. More specifically, the State criticizes individual provisions which, in its opinion, exceed the scope of health protection referred to in Article 117, paragraph 3, of the Constitution, directly affecting the requirements for access to medically assisted suicide, the methods of expressing one's will and the classification of the health services involved, with the danger of territorial fragmentation of the right to end one's life[2].

The Court, using a structured decision-making technique, first rejects the overall criticism, recognizing that the regional law, considered in its entirety, falls abstractly within the scope of concurrent competence in the field of health protection. From this perspective, Articles 1, 3, 8 and 9 of Tuscany Regional Law No. 16/2025 are immune from criticism; specifically, Article 1 merely declares the purpose of implementing constitutional rulings, Article 3 establishes permanent multidisciplinary commissions within local health authorities, which are considered consistent with what has already been indicated by constitutional case law regarding the role of public structures within the National Health Service, Articles 8 and 9 regulate, respectively, the free provision of services and financial coverage, without affecting the substantive aspects of the rights involved. These provisions are qualified by the Court as an expression

of legitimate organizational and managerial discipline, in line with established principles in the field of healthcare[3].

However, the Court's assessment differs with regard to the provisions that constitute the most problematic core of the regional law. The first and most significant reason for acceptance concerns Article 2 of Tuscany Regional Law No. 16/2025, which identifies the requirements for access to medically assisted suicide, expressly referring to Judgments No. 242 of 2019 and No. 135 of 2024. The Court declared the constitutional illegitimacy of the provision for violation of Article 117, second paragraph, letter l) of the Constitution, clarifying that the requirements identified by its own case law do not constitute a body of law that can be transposed into regional legislation. They represent the minimum content of an additional ruling intended to operate on a transitional basis and are not suitable for establishing an autonomous positive discipline, as already noted by the doctrine most attentive to the relationship between additional rulings and legislative sources[4].

A second aspect of illegality concerns Article 4, paragraph 1, limited to the provision that allows a representative of the interested party to submit the application for access to the procedure. The Court upholds the State's objection, considering that this provision conflicts with the highly personal nature of the decision, as outlined by Law No. 219 of 2017 and consistently referred to in its case law. The possibility of delegation alters the direct relationship between the person and the healthcare facility and affects the core of self-determination, falling outside the scope of mere organizational regulation, as also emerges from systematic reconstructions of the current regulatory framework[5].

Particularly significant is the acceptance of the objections relating to Articles 5 and 6 of the regional law, which regulate the verification of requirements and the procedures for implementing medically assisted suicide, setting strict and predetermined procedural deadlines. The Court considers that the time frame imposed by the Tuscan legislature directly affects the balance between the protection of life and individual self-determination, imposing a uniform and rigid procedural model in an area that requires clinical, psychological and relational assessments that are necessarily flexible. The determination of the timing of the procedure, precisely because it is connected to the extension and exercise of fundamental rights, cannot be left to the discretion of the regional legislator, but falls within the exclusive competence of the State.

Further and separate grounds for illegality arise with reference to Article 7 of Regional Law No. 16/2025 of Tuscany. Paragraph 1, which requires local health authorities to provide technical, pharmacological and care support for the preparation of self-administration of the drug, is declared unlawful as it exceeds the scope of mere organizational support and is likely to constitute a substantial obligation on the regional health service. Paragraph 2, which classifies the services as levels of healthcare above the LEA (Essential Levels of Care), is censured for violating Article 117, second paragraph, letter

m) of the Constitution, since the determination of the essential levels of services is the exclusive responsibility of the State. Finally, paragraph 3 is declared unlawful in the part referring to the “suspension or cancellation of treatment”, an expression considered conceptually incompatible with the structure of medically assisted suicide, which does not consist of a healthcare service provided, but of assistance in a final decision of self-determination, as also noted in the regulatory analysis.

In the overall picture, judgment no. 204 of 2025 is in line with the case law established by judgment no. 242 of 2019 and reaffirmed by no. 135 of 2024, but further develops its implications in terms of the division of powers.

The Court clarifies that its additional rulings cannot become the subject of replacement regional legislation, even when this is justified by the failure of the state to exercise its legislative function. This approach appears consistent with the concerns expressed in public and institutional debate regarding the risk of territorial inconsistency in end-of-life care and the need for uniform national regulations[6].

The Constitutional Court's decision does not merely resolve the main conflict between the State and the Region in relation to the individual Tuscan law, but has a broader and more systemic scope. Through a detailed examination of the contested provisions, the Court takes the opportunity to establish general criteria to guide the relationship between its own additive rulings, regional legislative autonomy and the protection of personal rights, clarifying the limits within which regional intervention can be considered constitutionally legitimate.

In this perspective, the ruling does not merely declare the total or partial illegality of Regional Law No. 16 of 2025, but sets out principles intended to bind any future similar regional legislative measures *ex ante*, excluding the possibility that the Regions may transform the contents of rulings No. 242 of 2019 and No. 135 of 2024 into autonomous positive law. In particular, the Court states that neither the requirements for access to medically assisted suicide, nor the timing of the relevant procedures, nor the classification of the services involved can be subject to differentiated regional legislation, reiterating that the “inaction” of the state legislator is not sufficient to legitimize stable forms of regional substitution in an area that directly affects fundamental human rights.

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[1] LEONARDO BIANCHI, *Sulla competenza legislativa regionale in materia di fine vita*, in *Osservatorio sulle fonti*, 2/2024, <https://www.osservatoriosullefonti.it/archivi/archivio-note-e-commenti/note-e-commenti-n-2-2024/1903-sulla-competenza-legislativa-regionale-in-materia-di-fine-vita>

[2] MARILISA D'AMICO, *Il “fine vita” davanti alla Corte costituzionale fra profili processuali, principi penali e dilemmi etici (Considerazioni a margine della sent. n. 242 del 2019)*, in *Osservatorio Costituzionale*, 2020,

<https://www.osservatorioaic.it/it/osservatorio/ultimi-contributi-pubblicati/marilisa-d-amico/il-fine-vita-davanti-alla-corte-costituzionale-fra-profilo-processuali-principi-penali-e-dilemmi-etici-considerazioni-a-margine-della-sent-n-242-del-2019>;
Diritto e Sanità – Università di Pavia, *Fine vita e legge regionale Toscana n. 16/2025: profili di competenza e riserva di legge*, 2025.

[3] Biodiritto.org, *Scheda normativa: Regione Toscana, legge n. 16/2025*, <https://www.biodiritto.org/Biolawpedia/Normativa/Regione-Toscana-Legge-n.-16-2025-modalita-organizzative-per-la-procedura-medicalizzata-di-assistenza-al-suicidio>.

[4] ANTONELLO LO CALZO, *La legge della Regione Toscana sulla procedura di accesso al suicidio medicalmente assistito*, in *Questione Giustizia*, 2025, <https://www.questionegiustizia.it/data/doc/4099/la-legge-della-regione-toscana-sulla-procedura-di-accesso-al-suicidio-medicalmente-assistito-versione-aggiornata-18-03.pdf>.

[5] On the constitutional and bioethical aspects of informed consent and advance directives as the basis for self-determination at the end of life, see ROCCO VALERIO VIOLA et al., *Rules on informed consent and advance directives at the end-of-life. The new Italian law*, in *La Clinica Terapeutica*, 171(2), 2020; nel dibattito pubblico e istituzionale, *Avvenire*, *Perché sul fine vita la legge toscana invade competenze statali*, 2025, https://www.avvenire.it/politica/perche-sul-fine-vita-la-legge-toscana-inva-de-competenze-statali_102623.

[6] AgenSIR, *Corte costituzionale e fine vita: reazioni dopo la sentenza n. 204/2025*, 30 dicembre 2025, <https://www.agensir.it/quotidiano/2025/12/30/corte-costituzionale-su-fine-vita-card-lo-judice-vescovi-toscana-sentenza-dimostra-lurgenza-di-ripensare-la-legge-in-parlamento/>.