

Comments on the draft General Comment No. 36 on article 6 of the International Covenant on Civil and Political Rights on the right to life

This submission was made on behalf of the Child Rights International Network - CRIN (www.crin.org) on 6 October 2017.

These comments address paragraph 10 of the draft general comments, specifically with regards to the provision of medical care to terminate life. The relevant language in the draft reads as follows:

“At the same time, States parties [may allow] [should not prevent] medical professionals to provide medical treatment or the medical means in order to facilitate the termination of life of [catastrophically] afflicted adults, such as the mortally wounded or terminally ill, who experience severe physical or mental pain and suffering and wish to die with dignity.”

We urge the Committee to avoid specifically limiting medical treatment allowing the termination of life of a person who is terminally ill to adults.

By removing an explicit restriction of this form of end of life treatment to adults, the General Comment would be brought in line with the way the Convention on the Rights of the Child addresses children’s involvement in making decisions about their medical care, avoiding strict age limits in favour of tests based on capacity. Article 12 of the CRC requires that children’s views “[be] given due weight in accordance with the age and maturity of the child”. In its General Comment on the right of the child to the enjoyment of the highest attainable standard of health, the Committee applied this right in the context of healthcare, recognising that it includes requiring that children “take increasing levels of responsibility for their own health and development”. The CRC’s approach to children making decisions about their own lives and health care is based on age and maturity, rather than exclusively on the basis of age.

This shift in language would also recognise emerging and diverging State practice with regards to the right to life of children. In 2014, Belgium became the first State to remove its age limits completely from the decision to request life ending treatment for people in a “hopeless medical situation of constant and unbearable suffering that cannot be eased and which will cause death in the short term”. The emphasis is placed on an individual’s capacity of discernment and also requires parental approval for the decision of children, to ensure that adequate safeguards are in place to ensure the decision is genuinely that of the patient and that the patient has capacity to make that decision.¹

We suggest that the quoted text be replaced with the following language:

“States parties may allow medical professionals to provide end of life care, including medical treatment or the medical means to facilitate the termination of life of terminally ill persons who experience physical or mental pain and suffering and wish to die with dignity.”

¹ For further discussion of the law, see CRIN, *Belgium: Age restrictions lifted on euthanasia*, 13 February 2014. Available at: www.crin.org/node/41289.