

Switzerland

[Excerpted from: [Carter v. Canada \(Attorney General\), 2012 BCSC 886 \(CanLII\)](#)]

[589] Unlike the other European countries which have decriminalized euthanasia or assisted suicide, Switzerland does not have a specific statute on this point. Rather, the matter is governed by the Swiss *Penal Code*, S.R. 311.0. In describing the Swiss legal regime and practice, I rely on the evidence of Dr. Georg Bosshard, Professor Lewis and Professor Shariff.

[590] Euthanasia is not permitted in Switzerland. It is punishable under Article 114 of the *Penal Code* as “death on request”, an offence which carries a lower minimum sentence than murder or manslaughter.

[591] Article 115 of the *Penal Code* provides that “[a]ny 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.” Thus, assisting a person to commit suicide is not an offence when done for unselfish motives.

[592] Dr. Georg Bosshard explains the implications of Article 115 further:

As a basis for an open practice of assisted suicide, article 15 is interesting for two reasons. First, it makes no mention of doctors – the legality of assisting suicide, in the absence of self-interest, holds good for any person. Second, there is no mention of any medical precondition. The only prerequisite is implicit; namely, that the individual wanting help to commit suicide must have decisional capacity, since otherwise he would not be “handlungsfähig” (have legal capacity) and his act could not be considered suicide.

[593] Assisted suicides must be reported as unnatural deaths to the local authorities.

[594] There are four right-to-die organizations in Switzerland: EXIT Deutsche Schweiz; EXIT Association pour le Droit de Mourir dans la Dignité; DIGNITAS; and Exit International. (The latter two organizations offer assistance to people who are not resident in Switzerland.) Almost all physician-assisted suicides (92% according to Dr. Bosshard) take place within the frameworks set up by these organizations. Dr. Bosshard describes the regime at EXIT Deutsche Schweiz:

EXIT Deutsche Schweiz (“EXIT DS”) provides assistance only after an evaluation process which requires that the wish to die is deliberate and stable, the member suffers from a disease with a hopeless prognosis, and the suffering is unbearable or unreasonable disability is present. EXIT DS workers follow a protocol and use a checklist to document what was discussed at the initial visit and all subsequent contacts. Most members who are considered eligible for help are close to death, and EXIT DS routinely recommends both hospice care and notification of the family. Difficult cases are referred to EXIT DS’s ethics committee for review. Everyone who

seeks assisted suicide must be examined by a doctor, who will not prescribe the lethal dose of barbiturates until he or she has assessed the patient's medical condition and decisional capacity. If the member is eligible but their own doctor declines to participate, EXIT DS can refer the member to a collaborating physician who would consider assessing the patient and prescribing the lethal drugs. The prescription will be obtained at a local pharmacy by an EXIT DS volunteer and stored at EXIT DS headquarters until the day of use, when a volunteer will again assess the member's decisional capacity. If the member continues to assert a desire to die, the volunteer will mix the drugs in liquid or food and hand it to the person to swallow. If the person is incapable of swallowing, the drugs can be self-administered through a percutaneous endoscopic gastronomy catheter or intravenously. Most suicides occur in the person's home, with only a few taking place in nursing homes or a dedicated room at EXIT DS in Zurich. At the time of death, the volunteer notifies the police, who attend with a medical officer. Provided that there are no indications that the assistance violated Swiss law, the case will be closed. The body is usually released to coroner at the scene, although the rules and procedures vary between cantons.

...

EXIT DS controls quality through screening and training of volunteers, adherence to eligibility and practice guidelines, retrospective review of cases (to review all assisted suicides), and ethics consultations (to deal with difficult cases). It will refuse to provide consultation or support for an assisted death if the person does not meet their eligibility criteria (in which case the person is referred to counselling, hospice or other appropriate agency).