

WRITTEN QUESTION E-0575/09

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to the Commission

Subject: The Eluana Englaro case

On 16 December 2008 the Italian welfare minister, Maurizio Sacconi, sent all Italian regional authorities an order (setting out official guidelines) stating that it is unlawful for public and private healthcare facilities within the national health service to withhold food and water from anyone in a persistent vegetative state.

The adoption of that order, which carries with it the threat of the suspension of national health service accreditation – and therefore extremely serious repercussions – for any healthcare establishment failing to comply with it, has hampered implementation of the judgment of the Milan Court of Appeal authorising the withdrawal of artificial feeding from Eluana Englaro, a young woman who has been in an irreversible coma for 17 years.

The ministerial order runs counter to a final ruling of the Court of Appeal and, in so doing, fails to respect the principles of the rule of law and the separation of powers in a democratic state. It is in breach of the principle laid down in Article 9 of the Convention on Human Rights and Biomedicine which Italy signed on 4 April 1997. Lastly, it goes against the views expressed by the European Parliament, as set out in paragraph 167 of the resolution on the situation of fundamental rights in the European Union 2004-2008 adopted on 14 January 2009, which reads: 'Asks those Member States who have not yet done so to introduce legislation on living wills to ensure [compliance with] Article 9 of the Oviedo Convention on Human Rights and Biomedicine (...) and to ensure the right to dignity at the end of life'.

Does the Commission consider that the Oviedo Convention, which has been signed by a large majority of EU Member States, now forms part of the 'principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States' referred to in Article 6 of the Treaty on European Union?

Would it not agree that respect for patients' wishes constitutes a fundamental right in our democratic societies?

Lastly, would it not agree that the Italian Government is setting a dangerous precedent by failing to abide by the principle of the separation of powers?