Irena Josifova[*]

ETHICAL, LEGAL, AND PRACTICAL ASPECTS OF EUTHANASIA AND ASSISTED SUICIDE

-Abstract-

This paper provides an overview of the definition of the term euthanasia, its forms, historical development and legal nature. In recent years, the issue of euthanasia and its legalization has often become the subject of stimulating discussions. Within those discussions, supporters and opponents of the early termination of life appear, but there is no unified opinion on this topic. The reasons why nowadays the question of ceasing a human life is opened are evident.

The great scientific achievements in the field of modern medicine, which make possible on one hand to protect and extend human life, and on the other hand, the great respect of society for the autonomy of the individual and the distancing of the traditional spiritual values. The issue of legalizing euthanasia goes through the historical stages of religion, ethics, medicine, law, but also the general cultural context while being examined through the prism of the individual view of each of us, depending not only on our stage of life.

Modern times are faced with homosexuality, surgical sex change, promotion of same-sex marriages and at the same time appeal for the acceptance of diversity, not as a difference but as a divergent given of the phenomena in the world around us as human values. This means that the stereotype of human values within the legal framework is broken in relation to the ethical, social, legal, religious pragma of the world, in that case why should euthanasia be a stigmatization of doctors if it is the autonomous will of the sick or his relatives - in the instance of lacking consciousness to decide for themselves - or when there is no possibility of cure.

States have different legislation in their legal system regarding the making of this decision. Euthanasia is legalized in the legal legislation of some European countries (Netherlands, Switzerland, Luxembourg and Belgium). Other countries have pronounced sanctions for the perpetrators in their legal system (North Macedonia, Croatia, Czech Republic). Others go to the opposite extreme, where they have legalized the euthanasia of terminally ill children (Netherlands, Belgium). On top of this different way of regulating legal systems in countries around the world, there are countless circumstances that have an impact when making the decision whether this act will be sanctioned. Especially from a scientific, cultural and religious aspect. Today, the number of countries that legalize passive euthanasia is gradually increasing, choosing a way and opportunity to help the sick to reduce their suffering in a dignified way, but the number of countries where it is sanctioned is still greater. A unified ethically accepted solution does not yet exist, so in view of that, the matter of deciding to end the life of an incurably ill person remains as a verdict for the legislative bodies in each country separately.

[*] Irena Josifova, PhD Candidate, Ss. Cyril and Methodius University Skopje, Iustinianus Primus Faculty of Law Skopje, e-mail: ijosifova@yahoo.com

From this research, I came to the knowledge that seriously ill people suffering from an incurable disease and their loved ones are not prevented from shortening their suffering in a dignified way in a country where euthanasia is legalized.

In this paper, relevant court judgments from the practice of the European Court of Human Rights of certain countries (Switzerland and France) will be presented.

Key words: euthanasia, legalization, ethics, dignified death, criminal act.

I. Introduction

Medical progress faces a number of bioethical challenges, including decisions about the beginning and end of life, especially the issue of legalizing abortion and, as one of the most controversial, euthanasia and assisted suicide. The legalization of abortion is permitted in a large number of countries in Europe, so that one of the most important bioethical topics is the issue of the decision to end life.

There are several countries in the world that have legalized certain forms of euthanasia and assisted suicide: the Netherlands, Belgium, Luxembourg. The Council of Europe has considered the issue of regulating the condition of patients who are in the terminal phase of the disease, but has not yet adopted a document that would directly regulate the issue of end-of-life decisions. During the plenary session held in Strasbourg in 2005, the Parliamentary Assembly of the Council of Europe rejected the draft Resolution on assistance to patients at the end of life.

However, significant progress has been made with the adoption of Recommendation Rec (2009) 11 (Recommendation CM/(2009)11 of the Committee of Ministers to member states on principles concerning continuing powers of attorney and advance directives for incapacity)[1]. This recommendation is addressed to the governments of the member states of the Council of Europe and recommends that they implement the principles and recommendations of this document in their legislation so that in each case concerning a person who is not capable of expressing his will, the possibility of authorizing a person (attorney) to decide on certain issues related to his condition will be foreseen.

II. Definition of euthanasia, historical development and its types

The concept of euthanasia does not always have the same meaning. In terms of the roots of the word, euthanasia originates from the Greek words "eu" which means good, mild and "thanatos" - which means death, so in translation it means

[1] The text is available on:
http://wcd.coe.int/ViewDoc.jsp?id=1563397&Site=CM

"good death", "gentle death". The roots of the word itself do not lead us to familiarize ourselves with euthanasia in its broadest sense - "good death" and it does not matter what the motives were, whether there was consent that caused it, etc. The attribute "good" - is important because it refers to the manner of dying: short and painless. Dysthanasia has the opposite meaning of euthanasia "bad death" - a death that is slow and painful. There is also the so-called Tachinasia - "quick death which is close to the concept of euthanasia. The concept of euthanasia is usually not used in the sense of every good death, because in that case suicide would also be included as a quick and painless death. In order to avoid any misunderstandings regarding what is meant by the concept of euthanasia, it is necessary to precisely determine what the aforementioned concept refers to. Accordingly, the concept of euthanasia denotes any procedure by which another person is killed in order to deprive him of unbearable suffering caused by his serious health condition.

Euthanasia as a type of mercy killing appears even during the most primitive communities of human existence.

2.1. Historical development of euthanasia

The Greek philosopher Socrates interpreted euthanasia as a consequence of the right of every person to die. The prominent Greek philosopher and thinker Plato, in his most famous work "The Republic", dealt with the concept of euthanasia and believed that a sick person should be left to die, and not treated, because this is not good for him or for the state (he approved passive euthanasia in view of the current interpretations present in criminal law). The ancient Greeks, at that time, also practiced eugenics, killing malformed or poorly developed children, and one of the earliest examples of euthanasia from that period is the abandonment of premature and malformed newborns on Mount Taygetus in ancient Sparta.

Contrary to the ancient Greeks, the Romans advocated the position of so-called active euthanasia. Seneca and Cicero advocated drowning disabled children.

In this context, the attitude of this time, in this regard, was best expressed by Thomas Aquinas who said that suicide is opposed to love of oneself, to the community and to God's authority over human life. The following period of human history testifies that cultural currents during the Renaissance were focused on the art of dying, which indicates the fact that examples in which euthanasia is mentioned are frequent, but in the context of discussions about it, and not notes on its practice. Thomas More in 1516, in his work Utopia, advised that if the patient is incurably ill or is exposed to degradation of humanity in him, it is best for the doctor to end such a life. In his utopian vision, he imagined a community in which death would be facilitated for those whose life were burdened by excruciating and prolonged pain would be made easier.

Martin Luther was much more direct in his text "Tischreden" from the 1530s when he said about the malformation of children: "...if I were a prince or a God I would throw such children into the Vltava River..., risking murder".

Contrary to thinkers and philosophers, doctors were guided by the Hippocratic Oath of the 5th century BC "I will not give a deadly poison to anyone even if he asks me, nor will I give him advice".

During the Middle Ages, the development of the idea of euthanasia stagnated. It was a time of the development of Christianity, and religious attitudes towards euthanasia had always been negative.

However, with the advent of the new century, new propagators of euthanasia appeared, among whom the most prominent were Thomas More and Francis Bacon.

The term euthanasia was first officially used by the English philosopher and scientist Francis Bacon in his work "Novum Organum" in 1620, and at the same time left a great mark on the experience of euthanasia. In the aforementioned work, Bacon emphasizes his position that the doctor has a duty to take all necessary actions to cure the patient, but, in the event of impossibility of cure, to provide them with a mild death by alleviating pain.

In the twentieth century, the number of supporters of euthanasia has been increasing, especially in the Anglo-Saxon countries. Great Britain and the United States have the most supporters, where societies - friends of euthanasia - have been formed, which have repeatedly proposed to their governments to legalize euthanasia, but all of these proposals have been rejected.

In pre-war Germany, draft laws in favor of euthanasia were proposed twice, but they were not accepted. In 1920, the prominent lawyer K. Bilding and the famous psychiatrist A. Hoche wrote a fateful book in which they proposed that all mentally ill people, disabled people and socially and economically useless people should be liquidated through euthanasia. Hitler used this in 1939 and 1941 under the camouflage of euthanasia to liquidate in various ways, especially in gas chambers, 270 thousand innocent people of different nationalities.

During that period, the so-called "Doctor Death" Jack Kevorkian also appeared from 1990 to 1996, who illegally carried out euthanasia in the state of Michigan and killed twenty-six patients by self-poisoning with carbon monoxide in a specially arranged van.

2.2. Types of euthanasia

In literature, there are several divisions of euthanasia, of which three are the most common. The first division is according to the criterion of the existence of an expressed will and explicit consent, i.e. an explicit request of the person on whom euthanasia is carried out (whose life is being terminated).

2.2.1. Voluntary euthanasia, Involuntary euthanasia and Forced euthanasia

Voluntary euthanasia exists when the patient's life is terminated with his explicit consent, i.e. at his request. In recent years, a fierce struggle has been waged between supporters and opponents of this type of euthanasia in order to prevent certain changes in the law that continue to allow any sick and incurable patient to seek medical help to terminate his life at his own request. A living will or "testament for life" of the patient for the rights of "desired death" is a document that consists of instructions and conditions for his potential medical treatment and allows patients to give it in advance, in the event that he is not able to express his will. Most often, these are cases of unconsciousness of the patient caused by some trauma or illness. Voluntary euthanasia is accepted under medical supervision in Belgium, Luxembourg and the Netherlands, but in most countries it is incriminated as privileged murder or as ordinary murder.

Involuntary euthanasia is that which is done to the patient without his consent or will or he is not able to decide on it, and others consider it to be his best interest - disconnection from artificial life support devices. This also includes those cases in which the consent is derived from the hypothetical will of the patient or from the consent of close family members. Involuntary euthanasia also includes euthanasia of children, which is illegal throughout the world. An exception is the Netherlands, which allows euthanasia of children in specific situations according to the Groningen Protocol.[2]

Forced euthanasia exists in those situations - which is carried out against the will of the patient by the use of force, deception or in another way. These actions most often constitute the criminal offense of murder, and in certain cases may have features of the qualified forms of the crime of murder. This form of euthanasia was most widely used in Nazi Germany, where the T4 program killed about a thousand people with mental problems. Based on the collaboration between the famous German criminal law theorist Karl Binding and the famous psychiatrist Alfred Hoche in 1920, the work "Permitting the Destruction of Worthless Life" was published. In fact, in the aforementioned work, Binding states that the characteristics of being for suicide are legal and the premise that people with mental disorders do not have a legally relevant will, so for them that will is manifested by someone else. Accordingly, he concluded that others should decide on their suicide, given that their life is worthless and should be destroyed. Due to these bitter experiences from the past, euthanasia is not used in Germany today, but only as "assistance in dying".

2.2.2. Active and passive euthanasia

The second division is according to the manner of its execution, i.e. whether the cause of death is caused by undertaking certain activities or inactions. Accordingly, we distinguish between active and passive euthanasia.

Active euthanasia refers to the causing of death of terminally ill patients or patients suffering from unbearable severe pain by taking some positive action (e.g. giving usually excessive doses of opiates or an overdose of a lethal injection of potassium chloride). Passive euthanasia is the failure to apply the usual methods of treatment in a given situation (e.g. not giving chemotherapy for cancer, not giving appropriate antibiotics, refusing to perform surgery, etc.) leaving the patient to die "naturally" from any disease they have. Active euthanasia is practiced in Switzerland, Luxembourg and Belgium.

Passive euthanasia also exists in cases where resuscitation is not performed or assistance is omitted to maintain the patient's life. Today, there is much talk about euthanasia or "mercy killing".

At the same time, passive euthanasia can also be defined as orthotansia (ortho - useful), which means a dignified death at the right time, without shortening life, but also without additional suffering, and it represents a middle ground between euthanasia and distansia (bad death - dys - wrong act and thanatos - death),

[2] The Groningen Protocol is a text written in 2004 by Eduard Verhagen, medical director of the pediatric department at the University Medical Center Groningen (UMCG) in Groningen, the Netherlands. The content of the protocol contains orders with criteria that doctors can apply when performing pediatric euthanasia, without fear of criminal prosecution.

which means an effort to maximally apply all possible means to prolong the life of a terminally ill person without which he would die, i.e. an excessive prolongation of the agony, suffering and death of the sick person only because its fundamental characteristic is the request for artificial prolongation of life, i.e. an effort to slow down the natural course of dying as much as possible. At the same time, passive euthanasia can also be considered as social euthanasia, which exists when old and terminally ill people are prematurely discharged from hospital, thus reducing their care to a minimum, only hastening death. In both cases, the motive is pity for a suffering human being, and there are no prospects for his cure or significant improvement in his condition. Although there may be an overlap of motives, euthanasia should still be distinguished from the criminal offense of "killing on demand". In this context, it is worth mentioning the emergence of a type of suicide inducement known as negative euthanasia, which manifests itself by leaving a large number of barbiturates next to the sick person.

The term itself combines elements from medicine, law, ethics and other related disciplines. Therefore, this topic is very current in the aforementioned scientific disciplines and has been under the "magnification" since the very existence of humanity. Despite extensive research on this issue, which encompasses the manner of ending life, there is still no final answer. The majority of scientists, researchers who deal with this issue, unequivocally agree that active euthanasia is murder, i.e. a crime, and as such is absolutely prohibited in most legislations, and the fact that it is committed with a positive motivation - mercy, grace qualifies it as murder with a mitigating circumstance. However, the most significant dilemma, i.e. the subject of the dispute in euthanasia, is passive euthanasia. An exceptionally complex issue that no one has yet managed to "demystify". A certain number of doctors believe that "dying at one's own will" is not an immoral act and according to moral values, everyone should have their own opinion, so it is okay (euthanasia should be legalized), (but it should not be liberalized). "Theoretical spears" have always been broken around this issue, and it is precisely here that convincing evidence arises between moral and legal principles. In "active euthanasia", the doctor undertakes certain activities that directly cause the death of the patient (e.g. the doctor gives the patient a lethal injection), and in passive euthanasia the doctor refrains from providing medical care, which would keep the patient alive, but as a result, death occurs. Neglect of duty, i.e. failure to provide appropriate medical care, is in law on the same value level as application, i.e. failure to provide appropriate medical care in the field of legal regulation and is equated with application, so in that case, passive euthanasia as causing death by "failure to provide due care" can ultimately be equated with active euthanasia. However, traditional medical ethics - law, accept as part of its basic code a distinction between active and passive euthanasia where there is a drastic difference in terms of moral view. Of course, there is a difference in terms of medical practice, because the adopted differentiation refers to what doctors want to do or not do in relation to dying patients.

- But there is also a third type of euthanasia, which is assisted suicide, which is the provision of the patient with the means to end his life, but these means are not directly used on him by the medical staff. So, the patient is put in a situation where the drugs with which he can commit suicide are available to him. It is an act in which the doctor performs all the previous preparatory actions, and the patient is

the one who performs the final act of suicide. However, "assisting in suicide, as well as assisting in dying, is identical to assisting as an accomplice, and consists in facilitating the commission of suicide, i.e. dying, making some real contribution to their commission"[3] and this is a punishable offense in most European countries. (This type of euthanasia is permitted in Switzerland, Belgium and the Netherlands.)

The American philosopher James Rachels, in his famous essay "Active and Passive Euthanasia" (1975), cites four arguments in favor of eliminating the differences between active and passive euthanasia and that there are no morally decisive distinctions: in each of these cases (killing the patient and leaving, allowing him to die) the ultimate death is identical and consists in killing the sick person.

- *Active euthanasia* is in many cases more humane than *passive euthanasia* (e.g. in the case of long-term and painful throat cancer),
- The division of euthanasia into *active and passive* leads to a life-or-death decision based on completely irrelevant reasons (e.g. the absence of a simple operation for a congenital defect that leads to the death of a child with Down syndrome)
- Such a division is based on the distinction between active action and omission of action in order to die, which in itself does not make any moral difference (e.g. actively or passively causing the drowning of a six-year-old relative due to inheritance)
- The most common arguments used to justify this division are invalid ("the doctor does nothing" but he actually "allows the patient to die". Namely, the doctor can also perform passive euthanasia with active action. A typical example is disconnecting the patient from the respiratory apparatus, which is one of the most common forms of passive euthanasia. In this case, the doctor does not allow the patient to die, but takes an active action that leads to his death.

This is another argument in favor of the untenability of the distinction between *active and passive euthanasia.*

These arguments that Rachels cites, fully confirm the non-existence of a difference between active and passive euthanasia, and represent one of the philosophers who are ahead of their time. Namely, in the majority of countries the distinction between active and passive euthanasia is dominant, in some of them passive but not active euthanasia is allowed, "forgetting" the argumentation of Rachels who clearly emphasizes and explains why one form of euthanasia is more humane than the other.

2.2.3. According to the third division, we distinguish between direct and indirect euthanasia

Direct euthanasia is undertaken with the intention of directly causing death, and indirect euthanasia is the reduction (relief of pain) and not his death that occurred as a result of that. Indirect euthanasia is a form of care for terminally ill or dying persons for whom the state provides palliative care.

Indirect euthanasia is permitted in the Declaration of the World Medical Association. It is decisively emphasized that "Euthanasia, i.e. the intentional

[3] Nikola Tupanchevski et al., Medical Criminal Law, Faculty of Law, Skopje, 2012, pp. 100-101.

termination of the life of a patient even at his request, or at the request of his close relatives, is unethical". However, the doctor can respect the patient's wish and allow the natural process of death to take its course in the terminal phase of the disease"[4]. However, in many cases it is very difficult to find a difference between direct and indirect euthanasia. For example, what form of euthanasia would be the case when a patient suffering from unbearable pain is expected to have 3-4 months left to live, and the doctor, at his request, gives him a large amount of morphine and thus ends his life in five days, and he is aware of what he is doing?

We conclude that this type of division is not always reliable, although it is widely accepted.

III. European courts of human rights, case study

The issues of euthanasia and the right to choose one's own or assisted death have been the subject of disputes before the European Court of Human Rights several times.

The European Court of Human Rights is an international court based in Strasbourg, which was established in 1959 as an institutional mechanism to control respect for human rights and ensure the fulfillment of the obligations undertaken by the contracting parties within the framework of the European Convention for the Protection of Human Rights and Fundamental Freedoms, according to Art. 19 of the convention. In Art. 46 of the Convention, the contracting parties undertake to comply with final judgments in all cases to which they are parties. However, the judgments of the ECHR have a declaratory character and the manner of execution of individual judgments at the national level depends on the choice of each state[5]. Before the ECHR, cases have been discussed both of patients who fought for the possibility of ending their own life and of cases where family members fought against court decisions allowing doctors to terminate life-sustaining treatment and as a result of which the patient died.

The European Convention for the Protection of Human Rights and Fundamental Freedoms[6], which stipulates the jurisdiction of the European Court of Human Rights, was drawn up on 4.11.1950 in Rome. The signatory governments, members of the Council of Europe, taking into account the Universal Declaration of Human Rights of 10.12.1948, proclaimed by the UN General Assembly, have striven to achieve the goal of greater unity among the members of the Council of Europe. Respect for human rights is prescribed at the beginning of the Convention in Article 1.

[4] The Declaration was adopted in Madrid in 1987 at the 39th session of the General Assembly and confirmed in Divonne-les-Bains in May 2005.

[5] ŠTURMA,P Legal Dictionary – European Court of Human Rights, 3rd edition, Prague: C.H. Beck, 2009

[6] European Convention for the Protection of Human Rights and Fundamental Freedoms, International Treaties No. 18/97, 6/99, 14/02, 13/03, 9/05, 1/06, 2/10

The following articles, the violation or respect of which is debated in relation to the issue of euthanasia in the ECHR in the most frequent cases, are: Article 2 (right to life), 3. (prohibition of torture), 5. (right to liberty and security), 6. (right to a fair trial), 8. (right to respect for private and family life), 9. (freedom of opinion, conscience and religion) and 14. (prohibition of discrimination).

Article 2 regulates the right to life, which is protected by law. No one shall be deprived of his life intentionally, except in the execution of a court judgment for a crime for which such a penalty is provided for by law. Article 1 of Protocol 6 abolishes the death penalty, but the possibility of detention is still left to States, the death penalty for acts committed in time of war or imminent threat of war[7]. Protocol 13[8] abolishes the death penalty in all circumstances, the provisions of Article 15 of the Convention cannot be derogated from. Deprivation of life as a result of self-defense, as well as deprivation of life of a person lawfully deprived of liberty by the use of force during arrest or to prevent the escape of the person deprived of life and necessary for the suppression of an insurrection or rebellion, is not contrary to the provisions of the article on the right to life.

Opponents of euthanasia, as one of the main arguments for its non-application, emphasize the argument that every person has the right to life, there are opinions that by performing euthanasia on dying people, their fundamental right is violated. It is interesting to note how the opposite of the right to life is the concept of the right to die, which appears in the case Cruzan v Director, Missouri Department of Health[9]. Nancy Cruzan is a young woman who was seriously injured in a car accident and as a result of severe brain damage, her permanent vegetation began[10]. When it was determined that her health condition could not improve, her parents requested the termination of her life support. The doctors refused their request, because according to state regulations, it was necessary to propose clear and unambiguous evidence that the termination of life also represents the patient's wish. However, the decision of the US Supreme Court is based on the opinion of a capable person to request the termination of their artificial life support, i.e. the person's right to choose death.

The European Convention for the Protection of Human Rights and Fundamental Freedoms does not protect the right to die in any article.

Case Study

Haas v. Switzerland

In this case, the European Court of Human Rights had to assess whether the refusal to provide non-prescription medical supplies necessary for the suicide of a

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[7] European Convention for the Protection of Human Rights and Fundamental Freedoms op.cit. Protocol No. 6 Art. 1

[8] Law on the ratification of Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances, International Agreement No. 14/2002

[9] Cruzan v. Director, Missouri Department of Health, 497 U.S. 261, June 25, 1990.

[10] Legal Information Institute, available at https://www.law.cornell.edu/supremecourt/text/497/261 (August 1, 2016)

person with serious psychological problems was contrary to Article 8 of the Convention.

Basic facts

The applicant in this case was a Swiss national, Ernst G. Haas, represented by the lawyer Schaerza[11]. Namely, the said person, for more than twenty years, had suffered from severe and bipolar affective disorder, and during that period had attempted suicide twice. In July 2004, Haas joined the organization “Dignitas” which, among other activities, offers assisted suicide, guided by the idea of ensuring a dignified death for its members at the moment they wish. Since the quality of his life had been lost, Haas asked the organization “Dignitas” to assist him in ending his life. The way he wanted to end his life was by consuming the deadly substance sodium pentobarbital, which is available only on prescription. He tried to hire several psychiatrists, that is, he sent them a letter and asked them to accept him as their patient and to undergo a psychoanalysis in order to determine whether his decision to commit suicide was a conscious and reasonable one or was a temporary consequence of a psychological disorder, but he failed in that intention. The authorities rejected his request on the grounds that the substance he wanted could only be obtained on a pharmaceutical or medical prescription. As a result of this failure, Haas filed a complaint that his right to respect for private and family life protected by Article 8 of the European Convention for the Protection of Human Rights and Freedoms had been violated.

He assumed that his right to respect for private life was consistent with the right to choose the time and manner of death, which was not accepted. His position was that the state, in exceptional situations such as his, must provide the necessary medical means for suicide at the request of those who wish to die. To understand Haas's case, it is necessary to know the provisions of national Swiss law. The Swiss Penal Code in Article 114 regulates euthanasia on request in such a way that it results in a prison sentence of up to three years or a fine. Article 115 of the same law regulates assisted death, which provides for a prison sentence of five years or a fine if the assistance is given for selfish motives. Regarding the punishment provided for assisting in assisted death, it can be concluded that the penal law of Switzerland is more liberal than the regulations in other countries. The Swiss Medicines Act stipulates that doctors can prescribe medications that are medically acceptable, after conducting a personal examination of the patient's condition.

In accordance with the above, with regard to the criminal law regulation of assisted death as well as the regulation related to the dispensing of pharmaceutical preparations, the Federal Court of Switzerland on 3.11.2006, issued a judgment rejecting Haas's request. The court based its decision on two facts: first, the substance sodium pentobarbital can only be obtained on prescription, and Mr. Haas's case does not fall under the exceptional cases where the medicinal preparation can be dispensed without a prescription. It is further explained that the right to choose death must be distinguished from the right to assistance in suicide by the state or a third party, given that the state has a duty to protect life. Accordingly, the state is not obliged to provide a person who wants to die with

[11] Judgment Haas v. Switzerland, ECHR, application no. 31322/07 of 20.01.2011, available at: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-102940%22]}

access to dangerous lethal substances that can help them as an ideal means of committing suicide.

The comparison of this case with the case of Pretty v. Great Britain, which served the Federal Court in explaining its judgment, is interesting. The Federal Court repeated the interpretation of Articles 2, 3 and 8 of the Convention from the case of Pretty and the right to life protected in Article 2 does not imply the right to die, and Article 3, which regulates the prohibition of torture, does not oblige the State to ensure impunity for persons who assist others in suicide at their request. There is also no violation of respect for private and family life, which is protected by Article 8, and the prevention of assisted suicide is necessary. However, the Federal Court drew attention to the need to distinguish the Haas case from the Pretty case. The basic question in the Haas case is whether the State should, in accordance with Article 8 of the Convention, take the necessary steps to ensure that a person can take his own life with the help of poisonous substances, which he will obtain without a doctor's prescription, contrary to the provisions of the law. The Federal Court's answer is negative, given that the Convention does not guarantee a theoretical or apparent right, but rather the practical and effective side of the right. Doctors can issue prescriptions for such substances if they meet all the necessary conditions, otherwise they will be subject to criminal, civil and disciplinary liability. In the case of mentally ill people, it is difficult to distinguish whether their wish to die is the result of a psychological disorder or an ongoing wish that should be respected. This issue further influenced the Federal Court's decision, since the patient must be aware of his or her decisions and their consequences. If the patient's decision to die is independent and conscious, a prescription for sodium pentobarbital can be issued to help the person commit suicide, but in practice it is difficult to apply it despite psychiatric analyses.

The applicant was dissatisfied with the Federal Court's decision, and in his appeal he alleged that the cases of assisted death provided by the organisation Dignitas between 2001 and 2004, of which he was a member, had not been taken into account. He argued that the fact that he had suffered from psychiatric problems for many years and that his intention to commit suicide was undoubted and clear, as he had already made several unsuccessful suicide attempts had not been taken into account. Finally, he argued that his right to respect for his private life had been rendered moot by the fact that it had been impossible to find a psychiatrist who would help him meet the necessary conditions to obtain the necessary lethal substance.

The Government further agreed with the Federal Court on the interpretation of Article 8 of the Convention that the protection of the right to respect for private life did not include the right of an individual to assisted suicide. The Government pointed out that there were practical examples of assisted death for the benefit of those suffering from mental illness organised by Exit and Dignitas, and that doctors had not been punished for it. Accordingly, the Government considered that the applicant could have found a doctor who would have testified that the conditions for issuing the prescription were met, and that the fault for not finding one was his own, as he had not followed the instructions of the Federal Court.

The decision of the European Court of Human Rights was unanimous and the Court held that there had been no violation of the applicant's right under Article 8 of the Convention.

The Court interpreted that the majority of States nevertheless give priority to the protection of human life over the right of a person to decide on his own death. In the Court's opinion, Mr Haas could not be treated as a patient, since he was not in a terminal phase of life, in which he was unable to take his own life. He wanted to take his life in an easy and dignified way and therefore sought access to the poisonous substance, although there were other alternatives to committing suicide. Given that assisted death is regulated through membership in the Dignitas and Exit organizations, it is positive to not allow improper issuance of medical prescriptions for lethal drugs in order to prevent the secret and illegal actions of those organizations as a consequence of the patient's malicious behavior.

IV. Conclusion

The conclusion of this research confirms that euthanasia is one of the most complex and controversial issues in modern society, which cannot be considered only from a legal or medical perspective, but also involves profound ethical, social and cultural dimensions. This research highlights the different levels of importance that this issue has in different societies, as well as the numerous influences of history, religion and morality on attitudes towards euthanasia. Considering these contexts is crucial for creating an appropriate and acceptable solution in terms of the right of patients to control their end of life, but also in the context of protecting their dignity.

The research highlights the necessity of responsible regulation of the euthanasia process through legal and ethical frameworks that will ensure safety for all parties involved, especially for patients, but also for medical professionals. The application of euthanasia is not only a matter of legal processes, but also of humanism in terms of how we relate to life and death. Creating legal regulations that take into account not only modern medical advances, but also cultural, religious and social contexts is of paramount importance to ensure a system that is just and ethically justifiable. These legal frameworks should ensure that euthanasia is carried out only in cases where the patient consciously and voluntarily makes their decision, and that medical personnel have the education and support to carry out this practice correctly and humanely.

Further research should focus on the development of new ethical guidelines and legal procedures that will address the practical challenges and dilemmas faced by patients, doctors and legislators. This research must also include new scientific advances in medicine and palliative care, which can offer alternatives for those suffering, without resorting to euthanasia, as well as mechanisms to protect basic human rights in the process. It is also necessary to develop standards for transparency, as well as to establish controls and procedures that will ensure that the entire process is ethically justified and implemented in accordance with legal norms.

In this regard, the creation of an appropriate model for the legalization of euthanasia is crucial. The model should be flexible and allow for adaptation to the specific needs of different societies, respecting their cultural, religious and legal

traditions, but also guaranteeing the freedom of choice and dignity of patients. It is through the exchange of experiences and examples from countries that already have legal regulations on euthanasia that the basis for future legal changes will be created and a safer and more poetic implementation of this practice will be enabled.

Further research in this area should be crucial for the development of social protocols and practices that will support and guarantee the rights of patients, as well as the safety of medical professionals, who are responsible for implementing this important decision. To enable the efficient and humane implementation of euthanasia, it is necessary to develop new standards for ethics, legal responsibility and social implications, as well as practices that will improve transparency and trust in the system.

Bibliography

1. Belgian Law on Euthanasia available at: https://www.ethical-perspectives.be/viewpic.php? LAN =E&TABLE=EP&ID=59.
2. Dutch law on Termination of life on request and assisted suicide, The World Federation of Right to Die Societies. available at https://www.worldrtd.net./dutch-law-termination-life-request-and-assisted-suicide-complete-text.
3. European Convention for the Protection of Human Rights and Fundamental Freedoms, International Treaties No. 18/97, 6/99, 14/02, 13/03, 9/05, 1/06, 2/10.
4. European Convention on Human Rights (1952). available at http://www.echr.coe.int/Documents/Convencion_ENG.pdf [accessed 30.05.2020]
5. European Commission. European Textbook on Ethics in Research. Luxembourg: Publications Office of the European Union, 2010.
6. Act ratifying Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances, International Treaty No. 14/2002
7. Legal Information Institute, available at https://www.law.cornell.edu/supremecourt/text/497/261 (01.08.2016)
8. Luxembourg Law on Euthanasia and Assisted Suicide in French: available at http: //legilux.public.lu/eli/etat/loi/2009/03/16/n2/jo
9. Oregon Death and Dignity Act 1994, available at http://www.oregon.gov/DHS/ph/pas//ors/shtml)
10. Judgment Hass v. Switzerland, ECtHR, Application, No. 31322/07 from 20.01.2011, available at: https://hudoc.echr.coe.int/eng{%22itemid%22:[%22001-102940%22]}
11. Ruling Cruzan v. Director, Missouri Department of Health, 497 U.S. 261, dated June 25, 1990.
12. Recommendation Rec (2009) 11 (Recommendation CM/Rec (2009)11 of the Committee of Ministers to member states on principles concerning continuing powers of attorney and advance directives for incapacity) http: wcd.coe.int/View Doc. Jsp? id=1563397&Site=CM

13. The German Law on Euthanasia: The Legal Basics and the Actual Debate, available at http://link.springer.com.chapter/10.1007%2F978-3-642-40555-6_6(06.09.2016)
14. Šturma, P. Právnicky slovnik – Evropsky soud pro lidská práva, 3.výdaní, Praha: C.H.Beck, 2009
15. Tupancevski, N. Deanoska - Trendafilova A. Kiprianovska D. Medical Criminal Law, Faculty of Law, Skopje 2012.
16. Turković, K., Roksandić – Vidlička, S., Maršavelski, A. Euthanasia and assisted suicide- ethical dilemmas in criminal policy, Hrvatsko medikos pravo u svjetu europaeus standarda, Hrvatski ljetopis za čena pravo i praksi (Zagreb), vol. 17, no. 1/2010
17. Vácha, Marek. Euthanasia, definition, history, legislation, ethics. Praha: Grada Publishing, a.s., 2019
18. Van der Mass, J. Paul & Gerrit van der Wal et al. "Euthanasia, physician-assisted suicide and other medical practices involving the end of life in the Netherlands, 1990-1995". The New England Journal of Medicine, 335, 1996.
19. Verhagen, Eduard. The Groningen Protocol – Euthanasia in Severe III Newborns. Available at: http://www.nejm.org/doi/full/10.1056/NEJMp058026
20. Washington Death with Dignity act 2008: available at http://wei.secstate.wa.gov/osos/en/Documents/I1000 – Text %20for%web.pdf
21. WMA Declaration of Geneva: c. http://www.wma.net/en/30publications/10policies/gl/ (20.07.2016).
22. WHO, Definition of Palliative Care: c. https: www.who.int/cancer/palliative/definition/eu/