Selected Legislation and Jurisprudence

Evaluation of the Dutch Legislation on Euthanasia and Assisted Suicide

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active voluntary euthanasia; physician assisted suicide; medical decisions at the end of life

In the Netherlands, until 2002 euthanasia and physician assistance in suicide were only allowed on the basis of court decisions. The question whether the Criminal Code should be changed to bring existing legislation more in accordance with medical practice has been a matter of extensive debate from 1984 onwards (the year in which the Supreme Court acquitted a doctor who had performed euthanasia). After almost 20 years, the Termination of Life on Request and Assisted Suicide (Review Procedures) Act came into force on April 1, 2002.

Most health legislation in the Netherlands is subject to systematical, periodical evaluation studies. At the end of 2004, the Ministers of Health and of Justice ordered an assessment of the new law. This evaluation should not only concern its legal qualities (e.g. consistency with international law, relation to other national laws, legal clarity etc.) but also its functioning in practice (knowledge of and attitudes towards the Act; adherence of physicians to the due care requirements and to the duty to report euthanasia or assisted suicide to the municipal forensic pathologist; the performance of the review committees and the public prosecution in carrying out their tasks under the Act; efficacy and side effects of the Act etc.).

In connection with this evaluation of the Act, extensive research has been carried out so as to provide insight into practical developments in medical decision-making at the end of life. Large nation-wide studies of this kind had already provided data on the frequency and characteristics of euthanasia, physician-assisted suicide and other medical acts that may hasten death in the past. These large scale studies of medical practices at the end of life were conducted in 1990, 1995 and 2001. The evaluation of the 2002 Dutch law offered a good opportunity for a follow-up on these previous studies, also to assess the effects of the law on end-of-life care.
The evaluation report was published in May 2007. On the whole, the report gives a positive picture both of the law and of medical practice as it has evolved over the years. In general, the law has achieved its objectives well. The frequency of euthanasia and assistance in suicide has decreased and the percentage of cases reported has increased. There does not seem to be any question of a slippery slope with regard to life termination, either with or without the request of the patient. Although there is, therefore, little incentive for substantial changes to the present arrangements, the evaluation study has demonstrated that there are specific points on which both the law and existing practice may be improved. It ends therefore with a number of recommendations pertaining to the law, recommendations to improve law-related procedures, recommendations concerning training and provision of information, recommendations with regard to guidelines and institutional policies, and other recommendations.

Below, the reader will find the full text of the Summary of the report. When a law has been evaluated, the government is expected to give its opinion on the results and to inform parliament to what extent it will implement the recommendations. For the present Dutch government, euthanasia is more than ever a sensitive issue since it rests on a coalition of Christian parties and the Social-democratic party. There is little or no room to alter the delicate balance that has been achieved between ‘pro life’ and ‘pro choice’ approaches. Until now, the government has not yet responded to the evaluation study in detail, but it has already announced that it will not make any proposals to change the law; no more will any other liberalization be allowed.

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