

Euthanasia and PAS

WMA European Region Meeting
on End-of Life Questions

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Introduction

- Euthanasia – an ambiguous concept
- Analytical usage vs. normative usage
- Ethics – Human Rights – (National) Legal Systems
- Common Law Countries – Civil (Roman) Law Countries
- All legal systems differ – Is there one great divide?

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Definitions

- Assisted Suicide – intentionally killing oneself with the assistance of another person
- PAS – suicide with assistance of a physician
- Euthanasia – intentionally killing another person in order to relieve this person's suffering (voluntary, non-voluntary, involuntary)

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Definitions

- (rep.) Euthanasia – intentionally killing another person in order to relieve this person's suffering (voluntary, non-voluntary, involuntary)
- „Letting die“ – limiting, terminating, withholding life-sustaining treatment because it is futile or according to the patient's will (sometimes also called „passive euthanasia“)

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Overlapping?

- (Physician-assisted) suicide
- Voluntary euthanasia
- Terminating or withholding life-sustaining treatment according to the patient's will

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Human Rights

- European Convention on Human Rights (1950)
- European Court of Human Rights
 - no consensus among Council of Europe member states
 - wide margin of appreciation for member states
 - several complaints declared inadmissible

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Human Rights

- European Court of Human Rights on (P)AS
 - no violation of ECHR if state prohibits assisting another person's suicide („Diane Pretty“, 29.4.2002)
 - no violation of ECHR if state does not provide access to lethal drug without prescription in order to commit suicide („Haas“, 20.1.2011)

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Human Rights

- European Court of Human Rights on (P)AS
 - violation of ECHR if state does not examine the merits of a claim for access to lethal drug in order to commit suicide („Koch“, 19.7.2012)
 - overruling of „Haas“ by Chamber but judgment of 14.5.2013 did not become final („Gross“, Grand Chamber, 30.9.2014)
- Note: German Federal Administrative Court (2.3.2017)
 - access to lethal drug in order to commit suicide granted by German constitution in extreme cases

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Human Rights

- European Court of Human Rights
 - no violation of ECHR if state allows withdrawal of life-sustaining treatment (5.6.2015 „Lambert“)
 - So far no decision on euthanasia apart from „Lamb“ (23.6.2015, complaint against UK ban on voluntary euthanasia inadmissible)

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“Letting die”

- Limitating, terminating, withholding life-sustaining treatment is **widely accepted in principle**, but conditions vary, e.g.
- Limited to patients who are terminally ill?
- Also for patients incapable to decide? And who is to decide for them?
- Significance of advance directives

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Euthanasia

- Most European countries ban **all forms** of euthanasia by criminal law
- NL, B and L have legalized **voluntary euthanasia** by a physician for adults, NL and B also for minors (conditions differ)
- The Netherlands also allow (**non-voluntary**) **euthanasia of newborn babies** that are terminally ill (under conditions laid down in the „Groningen protocol“)

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Physician-Assisted Suicide

- Group 1 (e.g. Austria): Ban on **all forms of assisted suicide** (and euthanasia)
- Group 2 (e.g. D): Euthanasia and some forms of assisted suicide **including PAS** are banned
- Group 3 (e.g. CH): Euthanasia is banned but **assisted suicide including PAS is legal** under certain conditions
- Group 4 (e.g. NL, B, L): **PAS is legal** under conditions similar to those for voluntary euthanasia

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Access to lethal drug

- Access to lethal drug in order to commit suicide
- Access regulated
 - prescription by physician
 - PAS
 - grant of access by regulating authority
 - case law of European Court of Human Rights and of German Federal Administrative Court

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Thank you for listening!

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