

WRONGFUL DEATHS BY ASSISTED SUICIDE OR EUTHANASIA

KILLED WITHOUT REQUEST (OR WHILE RESISTING)

Those who are killed **without any request** by doctors who have grown used to the practice of ending their patients' lives are clearly wrongful deaths. In some cases a doctor has performed euthanasia even where a person resisted.

Netherlands

In [2015](#) there were 431 cases of euthanasia without explicit request, representing 6.06% (or more than one out of sixteen) of all euthanasia deaths.¹

More than 1 in 200 (0.52%) of all deaths (other than sudden and expected deaths) of 17-65 year olds in the Netherlands are caused intentionally by euthanasia without an explicit request from the person being killed.

In [Case 2016-85](#) the Review Committees found that a doctor had not acted with due diligence in administering euthanasia to a woman with Alzheimer's disease. The woman had made a general reference in a living will to wanting euthanasia at the "right time". At the time the doctor euthanased her she was incompetent to voluntarily request it.

The doctor put medication in her coffee to reduce her consciousness deliberately so as to avoid her resisting being given drugs. Nonetheless she physically struggled against the administration of an intravenous lethal injection. She was physically restrained by family members while the doctor completed the administration of the lethal drugs.²

On 13 June 2018 the Regional Disciplinary Court for Healthcare in The Hague considered a complaint against the doctor brought by the Inspectorate for Health Care and Youth. The [decision](#) was published on 24 July 2018.³

¹ <https://opendata.cbs.nl/statline/#/CBS/en/dataset/81655ENG/table?ts=1525401083207>

²

https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2016/april/12/jaarverslag-2016/RTE_jaarverslag2016.pdf

³ <https://www.tuchtcollege-gezondheidszorg.nl/binaries/tuchtcolleges-gezondheidszorg/documenten/publicaties/documentatie-procedures/uitspraken/uitspraken-van-persberichten/beslissing-euthanasie-bij-dementie/2018-033bes.pdf>

The Court found that the written declaration of intent was not sufficiently clear to justify euthanasia in this case. It also found that the doctor should have tried to discuss the execution of euthanasia with the patient beforehand.

In view of the irreversibility of termination of life and the ethical aspects connected with the deliberate ending of the life of a fellow human being, a written euthanasia declaration must be unambiguous, not needing any further interpretation.

The Court did not completely ruled out that ambiguities in a written declaration of intent could be removed (even in the case of a demented patient) if a patient is later unambiguous, consistent and tenacious (verbally or non-verbally) in his statements about wanting death. However, with this patient this was not the case because she sometimes said she wanted to die and sometimes not.

Despite its finding that the doctor had seriously breached the requirements for euthanasia it only imposed a reprimand on the doctor.

On 9 November 2018 it was [announced](#) that a criminal investigation into this case by the Board of Public Prosecutors had concluded and that the doctor would be prosecuted.⁴

This is the first time that the Dutch Public Prosecution Service (OM) will prosecute a doctor for euthanasia since the introduction of the Act on Termination of Life on Request and Assisted Suicide in 2002.

*After extensive investigation, the public prosecutor came to the conclusion that the nursing home doctor had not acted in accordance with the legal standards. The public prosecutor considers it important **that the court assesses whether the doctor was entitled to rely on the living will completed by the woman.** In addition, the OM reproaches the physician that she assumed that the woman still wanted to die without verifying this with the woman. Although the woman had regularly stated that she wanted to die, on other occasions she had said that she did not to want to die. In the opinion of the OM, **the doctor should have checked with the woman whether she still had a death wish by discussing this with her.** The fact that she had become demented does not alter this, because according to the Public Prosecution, the law also requires the doctor to verify the euthanasia request in such a situation. **These two legal questions on the termination of life of people suffering from dementia justify the submission of this case to the criminal court judge.***

It is not yet known when the case will be heard by the District Court of The Hague.

⁴ <https://www.om.nl/vaste-onderdelen/zoeken/@104443/nursing-home-doctor/>