The Netherlands: Seventeen years of legalised patient killing

Euthanasia was formally legalised in the Netherlands on 1 April 2002 after several years in which it was practised openly after court decisions allowing it in certain circumstances.

Complications

Technical problems, complications and problems with completion in the administration of lethal drugs for euthanasia have been reported from the Netherlands.

Technical problems occurred in 5% of cases. The most common technical problems were difficulty finding a vein in which to inject the drug and difficulty administering an oral medication.

Complications occurred in 3% of cases of euthanasia, including spasm or myoclonus (muscular twitching), cyanosis (blue colouring of the skin), nausea or vomiting, tachycardia (rapid heartbeat), excessive production of mucus, hiccups, perspiration, and extreme gasping. In one case the patient's eyes remained open, and in another case, the patient sat up.

In 10% of cases the person took longer than expected to die (median 3 hours) with one person taking up to 7 days.[1]

From 2016 to July 2018 the Board of Procurators General reported on 11 cases of euthanasia with serious breach of protocols by the doctor, including a failed assisted suicide because the doctor ordered the wrong drug; seven cases of the muscle relaxant being administered when the person was not in a full coma and therefore potentially causing pain; and three cases where a first attempt at euthanasia failed and the doctor had to leave the person to get a second batch of lethal drugs.[2]

For assisted suicide in the Netherlands the doctor is required to be present until death occurs. Attempts at assisted suicide regularly fail to bring about death in the desired timeframe. In these cases, under the Netherlands protocols, the doctor then administers euthanasia drugs. This occurred in between 7% and 13% of cases of assisted suicide in the years 2014 to 2018.[3]

Increasing number of deaths

The number of reported deaths from euthanasia and physician assisted suicide rose sharply from 1815 in 2003, the first year under the new law, to a current high of 6585 deaths reported in 2017.[4] This represents an increase of 262.8% in raw number of reported deaths from euthanasia between 2003 and 2017. In 2003 some 1.28% of all deaths were brought about by reported acts of euthanasia or physician assisted suicide. In 2017 this had risen to 4.38% of all deaths. The percentage of deaths caused by reported acts of euthanasia or assisted suicide thus more than tripled (342.2%) in 14 years.[5]

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[1] Groenewoud J, et al. (2000) "Clinical Problems with the Performance of Euthanasia and Physician-Assisted Suicide in the Netherlands", *New England Journal of Medicine*, Vol 342, p. 551-556, http://content.nejm.org/cgi/reprint/342/8/551.pdf

[2] https://www.om.nl/onderwerpen/euthanasie/beslissingen-college/

[3] Regionale Toetsingscommissies Euthanasie, Jaaverslag 2018, p. 13, https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2018/april/11/jaarverslag-2018/RTEjv2018_DEF.pdf

[4] Regionale Toetsingscommissies Euthanasie Vijftien jaar euthanasiewet: belangrijkste cijfers 2017, 7 Mar 2018, https://www.euthanasiecommissie.nl/actueel/nieuws/2018/maart/7/vijftien-jaar-euthanasiewet-belangrijkste-cijfers-2017

[5] Denominator for calculations for percentage of all deaths (141,936 in 2003; 150,027 in 2017) from Centraal

The increase in 2017 from 2016 (6091 deaths) alone is 8.11%.

In 2017, one in sixteen (6.54%) of deaths in the Netherlands of persons aged between 60 and 80 years of age resulted from reported acts of euthanasia or assisted suicide.[6]

The number of reported deaths by euthanasia decreased – for the first time – in 2018 to 6126 (7% decrease from 2017).[7] This represents 4% of all deaths in the Netherlands in 2018.

The data above relates only to officially reported cases of euthanasia and assisted suicide. A more comprehensive picture is provided by the five yearly surveys by Statistics Netherlands on all deaths by "medical end-of-life decision". The latest data reports on all deaths in the Netherlands in 2015.[8]

In that year there were 7254 deaths caused intentionally by lethal medication – 6672 deaths by euthanasia with a request; 431 deaths by euthanasia with no explicit request; and 150 deaths by assisted suicide.

This represents nearly 1 in 20 (4.93%) of all deaths in the Netherlands.

More than 1 in 10 (10.5%) of all deaths (other than sudden and expected deaths) of 17-65 year olds in the Netherlands are caused intentionally by euthanasia or assisted suicide.

Euthanasia without explicit requests

In 2015 there were 431 cases of euthanasia without explicit request, representing 6.06% of all euthanasia deaths.

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.

For 2015 there is a significant discrepancy (1364) between the number of cases of euthanasia with request reported by Statistics Netherlands – 6672 – and the number of such cases reported (as required by law) to the Euthanasia Review Committees – 5308[9].

This suggests that in more than 1 in 5 (20.44%) cases where a doctor administers euthanasia with a request there is a failure to comply with the law requiring such acts to be reported.

If the additional 431 cases of euthanasia with no explicit request are included then more than 1 in 4 (25.27%) of cases of explicit killing by euthanasia are not reported.

Bureau voor der Statistiek; https://opendata.cbs.nl/statline/#/CBS/en/dataset/37943eng/table?ts=1525400330970

[6] Regionale Toetsingscommissies Euthanasie Vijftien jaar euthanasiewet: belangrijkste cijfers 2017, 7 Mar 2018, https://www.euthanasiecommissie.nl/actueel/nieuws/2018/maart/7/vijftien-jaar-euthanasiewet-belangrijkste-cijfers-2017; 52,041 people aged 60-80 years died in 2017, Centraal Bureau voor der Statistiek; https://opendata.cbs.nl/statline/#/CBS/en/dataset/37943eng/table?ts=1525400330970

[7] Regionale Toetsingscommissies Euthanasie, Jaaverslag 2018, p. 13, https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2018/april/11/jaarverslag-2018/RTEjv2018_DEF.pdf

[8] https://opendata.cbs.nl/statline/#/CBS/en/dataset/81655ENG/table?ts=1525401083207

[9] Regional Euthanasia Review Committees, Annual Report 2015, p. 16 https://english.euthanasiecommissie.nl/binaries/euthanasiecommissie-en/documents/publications/annual-reports/2002/annual-reports/annual-reports/Jaarverslag2015ENG.pdf

Grounds for euthanasia: psychiatric disorder and dementia

As is usually the case when legalised euthanasia is first proposed supporters in the Netherlands initially focussed solely on unbearable and unrelievable physical suffering associated with a terminal illness.

However, even before formal legalisation the grounds for euthanasia were expanded by the courts well beyond physical suffering to allow psychiatric conditions such as depression, anorexia, and anxiety associated with asymptomatic HIV to be considered as sufficient grounds to justify a physician granting a request by a person for the administration of lethal drugs.[10]

> *One of the requirements of careful practice, under which physicians performing euthanasia and assisting with suicide were assured freedom from prosecution, required that the patient be suffering. Doctors with patients who were suffering physically were not subject to prosecution, but it was not yet clear whether they would be treated the same in cases involving patients with non-somatic suffering. The psychiatrist and general practitioner of a woman suffering from depression decided to assist the woman with suicide. Although they were acquitted, the Rotterdam District Court noted that in cases of non-somatic suffering the consultation of another independent physician is preferable.*
>
> *In another case, the Almelo District Court held that although the suffering of a 25 year-old anorexia nervosa patient was not primarily physical, it was unbearable and therefore sufficient to dismiss the indictment against the pediatrician who had assisted in the patient's suicide.*
>
> *The Supreme Court addressed the issue of non-somatic suffering in the landmark 1994 case of Chabot.*
>
> *Dr. Boudewijn Chabot was a psychiatrist who supplied lethal drugs to a patient who had recently experienced a series of traumatic events that had left her with no desire to live. Although offered treatment for her condition, the patient refused. The Court began by affirming its earlier holdings that euthanasia and assisted suicide can be justified if:*
>
> > *the defendant acted in a situation of necessity, that is to say … that confronted with a choice between mutually conflicting duties, he chose to perform the one of greater weight. In particular, a doctor may be in a situation of necessity if he has to choose between the duty to preserve life and the duty as a doctor to do everything possible to relieve the unbearable and hopeless suffering of a patient committed to his care.*
>
> *The prosecution argued that the defense of justification should not be available to doctors who assist with suicides in cases where the suffering is non-somatic and the patient is not in the "terminal phase."*
>
> *The Supreme Court rejected this contention, and held that in such cases the justification can be rooted in the autonomy of the patient herself. The Court noted that,"the wish to die of a person whose suffering is psychic can be based on an autonomous judgment."*[11]

Euthanasia is now legally permitted in the Netherlands for dementia patients and for persons with

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[10] "Choosing Death," *The Healthcare Quarterly*, WGBH-Boston, aired March 23, 1993.

[11] Smies. Jonathan T. "The legalization of euthanasia in the Netherlands", *Gonzaga Journal of International Law*, (2003-4) 7, p. 19-20, http://www.gonzagajil.org/pdf/volume7/Smies/Smies.pdf

depression or other mental health issues in the complete absence of any physical illness or suffering.[12]

In 2017 there were 83 notifications of euthanasia or assisted suicide involving patients with psychiatric disorders (nearly six times the 14 cases in 2012 and a 38.33% increase from 60 cases in 2016). There were 166 notifications involving dementia (nearly four times the 42 notifications involving dementia in 2012 and a 17.73% increase from 141 cases in 2016). All these cases were in the absence of any other condition justifying euthanasia. Three of the dementia cases of euthanasia were performed on the basis of an advanced directive rather than a contemporary request by the person who was euthanased.[13]

Along with the overall 7% decrease in the number of reported deaths by euthanasia from 2017 to 2018, the number of notifications for euthanasia for psychiatric disorders (67) and dementia (146) also decreased in 2018.

Of the cases of euthanasia for psychiatric disorders in 2018, nearly 15% - ten out of 67 cases – involved persons aged between 18 and 40 years.[14]

Two of the dementia cases of euthanasia in 2018 were performed on the basis of an advanced directive rather than a contemporary request by the person who was euthanased.[15]

More than half (37) of the 60 cases of euthanasia for psychiatric disorders in 2016 were carried out by doctors from the Levenseindekliniek (End of Life Clinic).[16]

Psychiatric conditions for which euthanasia was performed in 2015 included personality disorder with post traumatic stress disorder and self-mutilation; and obsessive compulsive disorder.[17]

Euthanasia: autism and intellectual disability

A 2018 paper examines nine case reports on euthanasia in the Netherlands between 2012 and 2016 of

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[12] Regional Euthanasia Review Committees, *Annual report 2010*, p. 10, 13, 22-23, http://www.euthanasiecommissie.nl/Images/JV%20RTE%202010%20ENGELS%20(EU12.01)_tcm52-30364.pdf

[13] Regionale Toetsingscommissies Euthanasie Vijftien jaar euthanasiewet: belangrijkste cijfers 2017, 7 Mar 2018, https://www.euthanasiecommissie.nl/actueel/nieuws/2018/maart/7/vijftien-jaar-euthanasiewet-belangrijkste-cijfers-2017

[14] Regionale Toetsingscommissies Euthanasie, Jaaverslag 2018, p. 17, https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2018/april/11/jaarverslag-2018/RTEjv2018_DEF.pdf

[15] Regionale Toetsingscommissies Euthanasie, Jaaverslag 2018, p. 13, https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2018/april/11/jaarverslag-2018/RTEjv2018_DEF.pdf

[16] Regionale Toetsingscommissies Euthanasie, *Jaarverslag 2016*, p. 15 https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2016/april/12/jaarverslag-2016/RTE_jaarverslag2016.pdf

[17] Regionale Toetsingscommissies Euthanasie, *Jaarverslag 2015*, p. 50-52 https://www.nvve.nl/files/8414/6166/0719/RTE_jaarverslag2015DEF.pdf

people with an intellectual disability or an autism spectrum disorder.[18]

The case reports make for chilling reading, illustrating how once euthanasia becomes normalised in a society it becomes the go-to, accepted, "final solution" for "difficult" patients.

A man in his 60s with Asperger's, described as "an utterly lonely man whose life had been a failure", was euthanased because he was "horrified at moving into sheltered accommodation". Although he had been diagnosed with "severe and probably chronic depression with a persistent death wish" another psychiatrist, after seeing him just once, certified that he was free of depression in order to facilitate his euthanasia.

Another man in his 30s, also with Asperger's, was euthanased based on his distress at "his continuous yearning for meaningful relationships and his repeated frustrations in this area, because of his inability to deal adequately with closeness and social contacts".

A third case was of an intellectually disabled woman in her 60s who was euthanased for tinnitus despite a finding that "the patient had indeed gone through many treatments in the past, but also, that often the wrong treatments had been instigated. It had also become clear to the physician that the patient often wanted to abandon the treatments, and that the treating practitioners had not encouraged her to try and persevere with these treatment(s) a bit longer".

Euthanasia for multiple aging disorders/"tired of life"

In its June 2011 publication *The role of the physician in the voluntary termination of life* the Royal Dutch Medical Association (KNMG) states that as the elderly experience "*various other ailments and complications such as disorders affecting vision, hearing and mobility, falls, confinement to bed, fatigue, exhaustion and loss of fitness take hold … The patient perceives the suffering as interminable, his existence as meaningless and – though not directly in danger of dying from these complaints neither wishes to experience them nor, insofar as his history and own values permit, to derive meaning from them*." The KNMG considers that "*such cases are sufficiently linked to the medical domain to permit a physician to act within the confines of the Euthanasia Law*."[19]

In its first year of operation (1 March 2012 to 1 March 2013) the Levenseindekliniek (End of Life Clinic) granted euthanasia to 11 out of 34 cases of persons who requested on the sole grounds of being "tired of living" without any other medical (physical or psychological) condition.[20]

In 2017 there were 293 cases of euthanasia involving "multiple aging disorders".[21] These cases

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[18] Irene Tuffery-Wijne et al., "Euthanasia and assisted suicide for people with an intellectual disability and/or autism spectrum disorder: an examination of nine relevant euthanasia cases in the Netherlands (2012–2016)", *BMC Medical Ethics*, 5 Mar 2018, https://bmcmedethics.biomedcentral.com/articles/10.1186/s12910-018-0257-6

[19] KNMG [Royal Dutch Medical Association], *The role of the physician in the voluntary termination of life*, June 2011, p. 23, Available at: http://knmg.artsennet.nl/Publicaties/KNMGpublicatie/Position-paper-The-role-of-the-physician-in-the-voluntary-termination-of-life-2011.htm

[20] 6 cases where the person died before a decision was made or withdrew the request are excluded. Marianne C. Snijdewind et al., "A Study of the First Year of the End-of-Life Clinic for Physician-Assisted Dying in the Netherland", *JAMA Internal Medicine*, Published online 10 Aug 2015, Table 2: Outcomes of Requests to the End-of-Life Clinic for Euthanasia or Physician-Assisted Suicide, According to Medical Conditions, http://archinte.jamanetwork.com/article.aspx?articleID=2426428

[21] Regionale Toetsingscommissies Euthanasie Vijftien jaar euthanasiewet: belangrijkste cijfers 2017, 7 Mar

represent the kind of "tired of life" cases discussed by the KNMG.[22]

The 2018 Euthanasia Code published by the Regional Euthanasia Review Committees provides for euthanasia on the basis of a "stack of old age disorders":

If a patient wants to be eligible for euthanasia then the suffering must have a medical basis. But it is not required that a life-threatening condition exists. ***A stacking of old age disorders - such as visual disturbances, hearing disorders, osteoporosis, osteoarthritis, balance problems, cognitive decline - can cause unbearable and hopeless suffering****.*

These, often degenerative, disorders usually occur as people reach old age. It is the sum of one or more of these disorders and related complaints that cause suffering in connection with the history of the disease, the biography, the personality and the patient's values and capacities.[23]

There were 205 cases of euthanasia for "a stack of old age disorders" in 2018. Of these cases 66 involved persons under 90 years of age. The remaining 139 cases accounted for 27.15% of all cases of euthanasia of persons aged 90 years or more.[24]

Euthanasia for loss of vision

In Case 2016-44 the Review Committees approved the action of a doctor who euthanased a man aged between 80 and 90 years of age on the sole ground of having progressive loss of vision due to macular degeneration with his lack of capacity to read being accepted as unbearable and hopeless suffering.[25]

Euthanasia on wheels

In March 2012 the Dutch Right to Die organisation launched the Levenseindekliniek (End of Life Clinic) with six mobile teams of doctors to "*end their lives free of charge in their own homes*".[26] By the end of 2014 there were 29 mobile teams and the clinic dealt with 1035 requests for euthanasia in 2014.[27] This approach bypasses any need for the person's regular physician to be involved in the

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2018,
https://www.euthanasiecommissie.nl/actueel/nieuws/2018/maart/7/vijftien-jaar-euthanasiewet-belangrijkste-cijfers-2017

[22] Regionale Toetsingscommissies Euthanasie, *Jaarverslag 2015*, p. 10
https://www.nvve.nl/files/8414/6166/0719/RTE_jaarverslag2015DEF.pdf

[23] Euthanasiecode 2018: De Toetsingspraktijk Toegelicht, p. 21
https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/brochures/brochures/euthanasiecode/2018/euthanasiecode2018/EuthanasieCode2018.pdf

[24] Regionale Toetsingscommissies Euthanasie, Jaaverslag 2018, p. 17,
https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2018/april/11/jaarverslag-2018/RTEjv2018_DEF.pdf

[25] Regionale Toetsingscommissies Euthanasie, *Jaarverslag 2016*, p. 46
https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2016/april/12/jaarverslag-2016/RTE_jaarverslag2016.pdf

[26] Tony Paterson "Euthanasia squads offer death by delivery", *The Independent*, 5 March 2012, http://www.independent.ie/health/health-news/euthanasia-squads-offer-death-by-delivery-3039420.html

[27] Marianne C. Snijdewind et al., "A Study of the First Year of the End-of-Life Clinic for Physician-Assisted Dying in the Netherland", *JAMA Internal Medicine*, Published online 10 Aug 2015, http://archinte.jamanetwork.com/article.aspx?articleID=2426428

decision making about euthanasia.

Loneliness

In nearly half the cases where the Levenseindekliniek (End of Life Clinic) granted a request for euthanasia in its first year of operation (1 Mar 2012 to 1 Mar 2013) loneliness was listed as a type of unbearable suffering in nearly half (49.1%) the cases.[28]

Couple euthanasia

In 2018 nine couples were euthanased together.[29] Case reports are available for one of these couples. The husband had oesophageal cancer. The wife had multiple sclerosis. Her reason for requesting euthanasia at the same time as her husband was "*the prospect of having to be cared for entirely by strangers and unable to continue living independently*". While the case reports note that "*In the event that partners make a request for euthanasia at the same time, it must be established that the request of one partner has not been influenced or has been prompted by that of the other partner*" there is no discussion in the case report on the wife of any efforts being made to explore her fears of being cared for by others.[30]

Euthanasia "experts" trump physicians giving care

On 22 April 2015 a woman with dementia, Cobi Luck, was euthanased by a doctor at the Levenseindekliniek (End of Life Clinic), after a court ruled that doctors from the clinic had an expertise in euthanasia leading him to prefer their testimony to that of the doctors and staff from the nursing home who were providing her with daily care.

They testified that Ms Luck only spoke about euthanasia after her family had paid a visit. She still appeared to enjoy life and made comments which were not consistent with a desire for euthanasia. The nursing home staff knew her well and believed that she was not competent to make such a momentous decision. They stressed that people like Ms Luck were very vulnerable.[31]

Review is too late for the dead patient

The review committees in the Netherlands are required to consider whether all the conditions of the euthanasia law have been met in each case. In case 15 of the 2011 annual report the Regional Euthanasia Review Committees concluded that the attending physician failed to achieve an accurate diagnosis of the woman's back pain and only prescribed limited pain relief medication. Consequently it could not be said that the woman's pain was definitively unrelievable. Of course the woman can get

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[28] Marianne C. Snijdewind et al., "A Study of the First Year of the End-of-Life Clinic for Physician-Assisted Dying in the Netherland", *JAMA Internal Medicine*, Published online 10 Aug 2015, Table 3: Outcome of Requests for Euthanasia or Physician-Assisted Suicide According to Patient Characteristics and Other Circumstances http://archinte.jamanetwork.com/article.aspx?articleID=2426428

[29] Regionale Toetsingscommissies Euthanasie, Jaaverslag 2018, p. 17, https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2018/april/11/jaarverslag-2018/RTEjv2018_DEF.pdf

[30] Regionale Toetsingscommissies Euthanasie, Jaaverslag 2018, p. 45, https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2018/april/11/jaarverslag-2018/RTEjv2018_DEF.pdf

[31] "Vrouw (80) krijgt euthanasie tegen wil van haar behandelaars [80 year old woman receives euthanasia against the will of her carers", *nrc.nl*, 3 April 2015, http://www.nrc.nl/nieuws/2015/04/23/vrouw-80-krijgt-euthanasie-tegen-wil-van-haar-behandelaars/

no relief from this finding of error on the part of the doctor who failed her and then euthanased her as she is already dead by euthanasia.[32]

The same lack of remedy applies to the two cases of people with dementia who were euthanased in 2012 in relation to which the Review Committees found "*not to have been handled with due care*".[33]

In 2015 there were four cases where the Review Committee found a lack of due care before euthanasia was carried out. These included:

- Case 2015-01 where euthanasia was carried out on a woman with a history of stomach pains from an undiagnosed cause, who was reluctant to be examined by a geriatrician; [34]

- Cases 2015-28 and 2015-29 where the doctor failed to give an adequate dose of propofol to induce coma before administering rocuronium, a neuromuscular blocker that causes paralysis of all muscles except the heart and brings on respiratory arrest. Consequently these people may have experienced the distress of suffocation;[35]

- Case 2015-81 where, after the person was still breathing with a full pulse 25 minutes after being given thiopental to induce coma and rocuronium to cause respiratory failure, the doctor administered a second dose of rocuronium without adequately ensuring the person was in a full coma.[36]

Even where the Review Committees identify failures and report the cases to the Public Prosecution Service action is seldom taken apart from "counselling" the offending doctor. In Case 2014-02 a doctor performed euthanasia on a woman with aphasia after a stroke solely based on a twenty year old living will in which she expressed a desire for euthanasia if she ever had to live in a nursing home. The doctor subjectively concluded that she would be experiencing unbearable suffering simply from being in the nursing home despite the woman being unable to communicate. There were no signs of distress. Both the Review Committee and the Board of Procurators General recommended no prosecution.[37]

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[32] Regional Euthanasia Review Committees, *Annual report 2011,* p. 17
http://www.euthanasiecommissie.nl/Images/RTE.JV2011.ENGELS.DEF_tcm52-33587.PDF

[33] Regional Euthanasia Review Committees, *Annual report 2012,* p. 13
http://www.euthanasiecommissie.nl/Images/JV.RTE2012.engelsDEF2_tcm52-39100.pdf

[34] Regionale Toetsingscommissies Euthanasie, *Jaarverslag 2015*, p. 28-31
https://www.nvve.nl/files/8414/6166/0719/RTE_jaarverslag2015DEF.pdf

[35] Regionale Toetsingscommissies Euthanasie, *Jaarverslag 2015*, p. 44-46
https://www.nvve.nl/files/8414/6166/0719/RTE_jaarverslag2015DEF.pdf

[36] Regionale Toetsingscommissies Euthanasie, *Jaarverslag 2015*, p. 47-48
https://www.nvve.nl/files/8414/6166/0719/RTE_jaarverslag2015DEF.pdf

[37] Regionale Toetsingscommissies Euthanasie, *Jaarverslag 2015*, p. 68-69
https://www.nvve.nl/files/8414/6166/0719/RTE_jaarverslag2015DEF.pdf

Since 2016 the Board has finalised 23 other cases[38] referred to it by the Euthanasia Review Committees including 8 cases of botched execution of assisted suicide or euthanasia where the wrong drugs were used, where the person was not fully sedated before being given possibly painful lethal drugs, or where no back up euthanasia drugs where brought and the person had to wait for some time after a failed attempt at assisted suicide. Five of these cases were dismissed unconditionally. In 3 cases the doctor was placed on one year probation.
Another 3 cases where the doctor failed to bring a backup second euthanasia kit and the person had to wait after a failed first attempt at euthanasia were all dismissed unconditionally.

Another case involved a doctor leaving the patient's residence to return to his office after the patient ingested assisted suicide drugs. The patient died within 20 minutes. The doctor was placed on one year's probation.

Four further cases involved questions about the independence of the consultant - all dismissed unconditionally.

Two cases involved a psychiatrist from the End of Life Clinic who went ahead with the euthanasia of patients with psychiatric disorders (one an autistic man who had attempted suicide four times after his mother's death; the other a man with chronic paranoid schizophrenia) despite a finding by consultants that euthanasia was not justified. Both cases were dismissed unconditionally.

Four cases centred on whether or not the person met the eligibility criteria. Two of these were dismissed unconditionally. One of these involved a woman with poor lung function. The Board found that "living on the ground floor was not a reasonable alternative". In the other two cases the doctor was given one year's probation. In one of these cases a doctor from the End of Life Clinic went ahead with euthanasia despite the views of the patient's neurologist and psychiatrist that further treatment options were available for his mild Parkinson's disease, treatable anxiety and mood disorder. The man is still dead. He has no remedy for this lack of proper medical care.[39]

The take home message is that even where the law on euthanasia is clearly breached the most sloppy, negligent or arrogant doctors face for unlawfully killing a person seems to be one year probation - that is essentially a good behaviour bond.

Euthanasia request by gestures

The Board of Procurators General of the Netherlands announced on 26 October 2018 that it has decided not to prosecute a doctor who performed euthanasia on a 72-year-old woman in April 2017 and to dismiss the case unconditionally. In this case it was determined contrary to the finding of the regional euthanasia Review committees - that hand squeezes, nods, eye blinking and crying (!) were all sufficient signs of a request for euthanasia from a woman who was drifting in and out of a comatose state for the doctor to go ahead with administering lethal injection.[40]

Euthanasia despite resistance

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.

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[38] https://www.om.nl/onderwerpen/euthanasie/beslissingen-college/

[39] Regionale Toetsingscommissies Euthanasie, *Jaarverslag 2016*, p. 46 https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2016/april/12/jaarverslag-2016/RTE_jaarverslag2016.pdf ;

[40] https://www.dutchnews.nl/news/2018/10/doctor-will-not-be-prosecuted-for-euthanasia-of-woman-disabled-by-coma/ ; https://www.om.nl/publish/pages/58699/2018-03.pdf

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.[41]

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.[42]

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.[43]

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.

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[41] Regionale Toetsingscommissies Euthanasie, *Jaarverslag 2016*, p. 54-58 https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2016/april/12/jaarverslag-2016/RTE_jaarverslag2016.pdf

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

[43] https://www.om.nl/vaste-onderdelen/zoeken/@104443/nursing-home-doctor/

Pressure from family members

Professor Theo Boer, who served on a regional euthanasia committee for 9 years says that 'In some instances there is pressure from the family.' From the 4,000 case files that have crossed his desk, Boer estimates that "the family is a factor with one in five patients. The doctor doesn't want to put it in the dossier; you need to read between the lines. Sometimes it's the family who go to the doctor. Other times it's the patient saying they don't want their family to suffer. And you hear anecdotally of families saying: "Mum, there's always euthanasia".'

Dr Ruben Van Coevorden, an Amsterdam physician who has performed euthanasia, believes Boer's figure of one in five is realistic: 'There was one case where a woman was dying and had terrible stomach pains, her doctor was tearing his hair out, and when I turned up at the house the family practically pinned me to the wall and said: "You need to give mum the jab now, she's in agony!" 'I discovered that her treatment wasn't working, she was on the wrong type of laxatives and was terribly constipated. I organised a palliative regime that made her more comfortable, and afterwards the family were extremely grateful. She was close to dying anyway, but it allowed them to say goodbye in a better way.'[44]

Child euthanasia

Children as young as 12 years of age may be given euthanasia under the Netherlands euthanasia law.

For 12 to 15 year old children the parents must agree with the child's request for euthanasia before it can put into effect. For 16 and 17 year olds the parents must be involved but the decision is for the child alone.

A **total of fifteen children have been given euthanasia**, including **one 12 year old child** in 2005[45], a 16 year old in 2015[46], five 17 year old children between 2002 and 2015[47] and two children (aged 16 or17 years) in 2016[48], three children in 2017[49] (one aged 16 or 17 years, other two cases no case

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[44] "Rise in euthanasia requests sparks concern as criteria for help widen", *DutchNews.nl*, 3 July 2015, http://www.dutchnews.nl/features/2015/07/rise-in-euthanasia-requests-sparks-concern-as-criteria-for-help-widen

[45] Case 2005-01, https://www.euthanasiecommissie.nl/uitspraken/publicaties/oordelen/minderjarigen/2005/oordeel-2005-01

[46] Case 2015-59, https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/publicaties/oordelen/2015/geen-redelijke-andere-oplossing/oordeel-2015-59/oordeel-2015-59.pdf

[47] Regionale Toetsingscommissies Euthanasie, *Jaarverslag 2015*, p. 14 https://www.nvve.nl/files/8414/6166/0719/RTE_jaarverslag2015DEF.pdf

[48] Regionale Toetsingscommissies Euthanasie, *Jaarverslag 2016*, p. 14 reports only Case 2016-58 https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2016/april/12/jaarverslag-2016/RTEjv2016.pdf ; Case 2016-10, https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/publicaties/oordelen/2016/zorgvuldigheidseisen-algemeen/oordeel-2016-10/Oordeel+2016-10.pdf ; Case 2016-58, https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/publicaties/oordelen/2016/vrijwillig-en-weloverwogen/oordeel-2016-58/Oordeel+2016-58.pdf

[49] Regionale Toetsingscommissies Euthanasie, *Jaarverslag 2017*, p. 16 https://www.euthanasiecommissie.nl/uitspraken/jaarverslagen/2017/mei/17/jaarverslag-2017

report), and three children in 2018 (two aged 16 or 17 years; one case report not available)[50].

All cases with detailed case reports (11 out of 15) involved end stage cancer. It is not known what the condition was in the remaining four cases.

Assisted suicide for "completed life"

On 12 October 2016 the Netherlands Government formally reported to the Parliament its response to the February 2016 report of a commission on assisted suicide for "completed life".[51] The report considered the possibility of expanding the law to specifically provide for legalised assisted suicide for people who felt their life was complete but who did not qualify under the existing law because there was no medical basis for the feeling that life was an unbearable burden. The report suggested that in most cases such people could be accommodated under the existing law by the increasingly broad interpretation being given to its requirements.

However, the government's response, cosigned by Edith Schippers, Minister of Health, Welfare and Sport and Ard van der Steur, Minister of Security and Justice, proposed a new law – to be drafted in 2017 – to specifically legalise assisted suicide for those who feel that their life is complete and who wish to die in cases where there is no underlying medical basis for this feeling.

The government proposes the creation of a new category of community worker – *stervenshulpverlener* – a death worker, whose role would be to assess whether the person's request for assisted suicide was voluntary and persistent and that there were no reasonably available medical or social measures to relieve the feeling that life was a burden.

The government response points out that the existing law on euthanasia is premised on a doctor being confronted with a patient who has unbearable suffering that cannot be relived other than by deliberately ending the patient's life. Euthanasia is portrayed as an act of mercy.

The government response suggests that for persons who feel that they have completed their life and that to continue living it is a burden the State also can facilitate an act of mercy – namely after approval by a death worker and confirmation by a second death expert, facilitating assisted suicide.

There is a suggestion that as this feeling of completed life is most common in elderly people it would be in order to impose a minimum age limit but no indication is given as to what this might be.

Conclusion

The failed euthanasia experiment in the Netherlands has demonstrated that legalised euthanasia

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Case 2017-13, https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/publicaties/oordelen/2017/vrijwillig-en-weloverwogen-verzoek/oordeel-2017-13/Oordeel+2017-13.pdf

[50] Case 2018-48, https://www.euthanasiecommissie.nl/uitspraken/publicaties/oordelen/2018/2018-41-tm-2018-50/oordeel-2018-48 ; and Case 2018-51, https://www.euthanasiecommissie.nl/uitspraken/publicaties/oordelen/2018/2015-51-tm-2018-60/oordeel-2018-51

[51] Kamerbrief over Kabinetsreactie en visie Voltooid Leven, 12 Oct 2016, https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2016/10/12/kamerbrief-over-kabinetsreactie-en-visie-voltooid-leven/kamerbrief-over-kabinetsreactie-en-visie-voltooid-leven.pdf ; Rapport Adviescommissie Voltooid leven, 4 February 2016, https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2016/02/04/rapport-adviescommissie-voltooid-leven/01-adviescommissie-voltooid-leven-voltooid-leven-over-hulp-bij-zelfdoding-aan-mensen-die-hun-leven-voltooid-achten.pdf

rapidly expands from a few hard cases to become the normal way to die - including for people struggling with mental illness or trying to adjust to the usual frailties of old age. It also emboldens some doctors to readily kill their patients without any request from the patient and - in at least one case - in the face of active resistance from the person.