

FACTSHEET 26: Voluntary euthanasia in Belgium

The Belgian law on euthanasia came into force on 23rd September 2002, legalising both voluntary euthanasia and physician assisted dying for people suffering "constant and unbearable physical or mental suffering that cannot be alleviated." It was the second country to legalize euthanasia, following the Netherlands in 2001. The debate in Belgium, a predominantly Catholic country, lasted about three years. Under the Belgium law, patients do not have to be suffering from a terminal illness. The criminal code remains unchanged but voluntary euthanasia is permitted subject to prescribed conditions. In the Belgium law, euthanasia is described as 'an act on purpose, performed by a third person, in order to end the life of a person who has requested for this act'. Only a doctor can perform euthanasia.

Voluntary euthanasia is permitted when:

- The patient is an adult or an emancipated minor, capable and conscious at the time of his / her request;
- The request is made voluntarily, is well thought out and reiterated, and is not the result of outside pressure;
- The patient is in a hopeless medical condition and complains of constant and unbearable physical or mental pain which cannot be relieved, and
- He / she has complied with the conditions and procedures prescribed by the present law.

Voluntary euthanasia and minors

On February 13, 2014, the law was extended to minors when Belgium removed the age limits to access the assisted dying regime. Belgium was the first country in the world to remove the age limit. (The Netherlands permits access for children 12 years and older, under strict criteria). A child will only be eligible to access the legislation if all of the following conditions are satisfied:

- The child must be "conscious" and display "a capacity of discernment". This refers to a child who is competent to decide for themselves. This means that the child has the understanding and intelligence necessary to fully understand the decision to seek assistance to die.
- The child must "be in a hopeless medical situation of constant and unbearable suffering that cannot be eased and which will cause death in the short-term".
- The child must be counselled by doctors and a psychiatrist or psychologist, and the child's decision must be approved by his or her parents.

The cohort of children who may access euthanasia in Belgium is therefore narrow. The capacity aspect serves as an indirect limit related to age, as only older, mature children would be able to satisfy that criterion. Three years after

the age limit was removed, a terminally ill 17-year-old became the first minor to be helped to die (September 2016). The head of the federal euthanasia commission said the teenager was "suffering unbearable physical pain".

Obligations of the doctor under the Act

- The patient must be informed of their health conditions, life expectancy, any possible therapies including palliative care, and the consequences of their decision.
- The doctor must be competent concerning the nature of the medical condition, and certain that there are no other reasonable treatments and options for the patient.
- The doctor must ensure that the request is based on free will.
- The doctor must be certain that the physical and psychological suffering of the patient is persistent, by conducting several interviews at intervals consistent with the progress of the medical condition.
- A second independent doctor must be consulted to investigate the incurable and unbearable nature of the patient's suffering, and the treating doctor will inform the patient of the results of the second consultation.
- If a treatment team is involved the patient's request must be discussed by the team.
- If it is the wish of the patient, the request may be discussed with designated people close to them and the doctor must ascertain that the patient has had the opportunity to discuss their request with those people.
- If the doctor is of the opinion that death is not expected within a short time they must, in addition, consult with a second independent doctor, either a psychiatrist or relevant medical specialist, to also review the patient's condition and provide a written report for the treating doctor who will inform the patient of the results of this consultation.

One month must elapse between the patient's written request and the act of euthanasia. The request must be written, but if the patient is unable to do so, it must be in writing by an adult of the patient's choice, and one who will not benefit financially from the patient's death. If a person other than the patient makes the written request, it must be in the presence of the doctor who will be named in the document held in the medical records. The patient may cancel their request at any time. All requests and treatment steps must be entered into the medical records. A doctor who, from freedom of conscience refuses to perform euthanasia, must transfer the patient's medical record to a colleague of the patient's choosing.

Advance Directives

If the patient is no longer conscious or cannot express their will, the law allows doctors to act upon an advance directive, if it is less than five years old and held in their medical records.

Obligatory recording

After the doctor has performed the act of euthanasia it must be reported to the Federal Commission of Control and Evaluation. The commission investigates each file and reports to parliament annually.

Scope of practice

The preconditions and procedures of the law clearly establish the principle of a strong doctor / patient relationship.

Other considerations

Legislation on palliative care has also been adopted. Belgium also benefits from a system of health care guaranteeing universal access to high quality medicine. The State Council stated that the legitimacy of decriminalising euthanasia is based on the legislator's task to reconcile opposing ethical concepts. During the debate, Senator Philippe Mahoux stated that

'decriminalisation of euthanasia represents the recognition of the autonomy of the will of the individual, alone capable of judging the degree of their suffering, and the quality and dignity of their final moments of life.'

References:

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4. Le Quotidien du Medecin, September 23, 2002
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