

FACTSHEET 26: Voluntary Euthanasia in Belgium

The Belgian law on euthanasia came into force on 23rd September 2002. The criminal code remains unchanged but euthanasia is permitted, subject to prescribed conditions. In the 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.

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.

Obligations of the doctor:

- The patient must be informed of their health conditions, life expectancy, any possible therapies including palliative care, and the consequences of their decisions.
- The doctor must be competent concerning the nature of the medical condition, and certain that there are no other reasonable solutions.
- They must ensure that the request is based on free will.
- The doctor must be certain of the consistent physical and psychological suffering of the patient, 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 or by some of its' members.
- If it is the wish of the patient, their 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 requests 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 will 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 establishes 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. One of the 'fathers' of the new law, 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:

1. Transcript of the Belgian Law On Euthanasia
2. World Federation of Right to Die Societies Euthanasia decriminalised under tight rules, www.worldrtd.net/news/federation/?id=606
3. World Federation of Right to Die Societies One year of enforcement of the law www.worldrtd.net/news/federation/?id=596
4. Le Quotidien du Medecin, September 23, 2002
5. Voluntary Euthanasia Society of Victoria Inc. The Belgium Euthanasia Law, www.vesv.org.au