Netherlands (2002-)

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.

Increasing number of deaths

The number of reported deaths from euthanasia rose fivefold (500%) from 1,815 in 2003, the first year under the new law, to 9,068 deaths reported in 2023.[1]

In 2003 some 1.28% of all deaths were brought about by reported acts of euthanasia. In 2023 this had risen more than fourfold (418%) to 5.35% of all deaths.

In 2021 deaths by reported euthanasia accounted for 6.4% (one in 16) of all deaths of persons aged between 15 and 79 years and for 9.94% (nearly one in 10) of deaths reported as due to cancer.

The data above relates only to officially reported cases of euthanasia and assisted suicide. A more comprehensive picture is provided by the five or six 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 2021.[2]

For 2021 there is a significant discrepancy (1,617) between the number of cases of euthanasia (9,038) or assisted suicide (245) with request reported by Statistics Netherlands and the number of such cases reported (as required by law) to the Euthanasia Review Committees – 7,477 cases of euthanasia and 189 of assisted suicide[3].

Additionally, the 2021 Statistics Netherlands report records 517 cases of "ending life without an explicit request".

So in total for 2021, there were 9,799 people whose deaths were caused intentionally by lethal medication representing nearly 1 in 20 (5.73%) of all deaths in the Netherlands – with 2,133 of those deaths (more than one in five or 21.77%) without an explicit request under the law, including 517 (5.28%) with no explicit request at all from the person.

In 2021 more than 1 in 10 (10.63%) of all deaths (other than sudden and expected deaths) of 17–79 year-olds in the Netherlands were caused intentionally by euthanasia or assisted suicide. Nearly 1 out of 3 of these deaths, or nearly 1 in 30 (3.24%) of all deaths (other than sudden and expected deaths) of 17–79 year-olds in the Netherlands were caused intentionally by euthanasia or assisted suicide outside the provisions of the law.

Nearly 1 out of 150 (0.65%) deaths of people aged between 17 and 64 years was caused by the administration of lethal drugs with no explicit request at all from the person.

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[1] Regionale Toetsinggscommissies Euthanasie Jaarverslag 2023. https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2023/april/4/index/RTE-Jaarverslag-2023-definitief.pdf

[2] StatLine - Deaths by medical end-of-life decision; age, cause of death (cbs.nl)

[3] Regional Euthanasia Review Committees, Annual Report 2021, https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2021/maart/31/jaarverslag-2021/RTE_JV2021_ENGELS_def.pdf

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.[4]

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.[5]

In 2021, one case involved the doctor leaving the person to get a third set of euthanasia drugs

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 15% of cases of assisted suicide in the years 2014 to 2023.[6] In 2022, 33 out of 219 (15%) cases of attempted assisted suicide were completed by an act of euthanasia.

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.[7]

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[4] 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

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

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

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

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."[8]

Euthanasia is now legally permitted in the Netherlands for dementia patients and for persons with depression or other mental health issues in the complete absence of any physical illness or suffering.[9]

There were 288 notifications involving dementia (up 16.67% from 2022 and eight times the 42 notifications involving dementia in 2012). All these cases were in the absence of any other condition justifying euthanasia.

[8] 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

More than four out of ten (123 cases – 42.7%) of the 288 cases of euthanasia for dementia in 2022 were carried out by doctors from the Expertisecentrum Euthanasie (Euthanasia Expertise Centre).[10]

In five of these cases the medical practitioner performing the euthanasia did so without complying with the requirement to consider fully the view of an independent psychiatrist who has examined the person in relation to the request for euthanasia.

In Case 2023-002, the medical practitioner who performed euthanasia on woman for her somatic symptom disorder (tinnitus) arrogantly defended his failure to consult an independent psychiatrist. The Review Committee ruled that breach of the due care criteria had occurred.[11] It is not clear what further action, if any, the Review Committee is now taking in such cases.

In 8 of the dementia cases in 2023 (up from 2 cases in 2020), euthanasia was performed on the basis of an advanced directive rather than a contemporary request by the person who was euthanased.

In 2023 there were 138 notifications of euthanasia or assisted suicide involving patients with psychiatric disorders (up 20% from 2022 and nearly ten times the 14 cases in 2012), including 22 people aged between 18 and 40 years.

Of the 115 psychiatric cases reported in 2022, 24 cases involved a person aged between 18 and 40 years of age.[12] For example, Case 2022-085 involved the euthanasia of a young woman aged between 20 and 30 years of age who had obsessive-compulsive disorder, autism spectrum disorder (ASD), post-traumatic stress disorder related to being bullied when younger, and recurrent depressive episodes. The patient was also known to have anorexia nervosa and a mild intellectual disability.[13]

In five of these 115 cases (4.35%) the medical practitioner performing the euthanasia did so without complying with the requirement to consider fully the view of an independent psychiatrist who has examined the person in relation to the request for euthanasia.

In Case 2023-002, the medical practitioner who performed euthanasia on woman for her somatic symptom disorder (tinnitus) arrogantly defended his failure to consult an independent psychiatrist. The Review Committee ruled that breach of the due care criteria had occurred.[14] It is not clear what further action, if any, the Review Committee is now taking in such cases.

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[10] Ibid.

[11] https://www.euthanasiecommissie.nl/uitspraken-en-uitleg/p-2023/documenten/publicaties/oordelen/2023/2023-001-tm-2023-020/oordeel-2023-002

[12] Regionale Toetsinggscommissies Euthanasie Jaarverslag 2022, p. 13 https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2022/april/6/jaarverslag-2022/RTE_JV2022_def_2april.pdf

[13] https://www.euthanasiecommissie.nl/uitspraken-en-uitleg/p-2022/documenten/publicaties/oordelen/2022/2022-81-tm-2022-100/oordeel-2022-085

[14] https://www.euthanasiecommissie.nl/uitspraken-en-uitleg/p-2023/documenten/publicaties/oordelen/2023/2023-001-tm-2023-020/oordeel-2023-002

More than half (65 cases – 56.5%) of the 115 cases of euthanasia for psychiatric disorders in 2022 were carried out by doctors from the Expertisecentrum Euthanasie (Euthanasia Expertise Centre).[15]

Psychiatric conditions for which euthanasia was performed in 2015 included personality disorder with post-traumatic stress disorder and self-mutilation; and obsessive compulsive disorder.[16]

In 2021 psychiatric conditions for which euthanasia was performed included borderline personality disorder, post-traumatic stress disorder and somatically unexplained physical complaints.

Euthanasia: autism and intellectual disability

A 2018 paper examines nine case reports on euthanasia in the Netherlands between 2012 and 2016 of people with an intellectual disability or an autism spectrum disorder.[17]

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".

Another study of 39 cases of euthanasia of people with autism spectrum disorders (ASD) or intellectual disability, carried out between 2012 and 2021 in the Netherlands, found that:

> *Factors directly associated with intellectual disability and/or ASD were the sole cause of suffering described in 21% of cases and a major contributing factor in a further 42% of cases. Reasons for the [euthanasia] request included social isolation and loneliness (77%), lack of resilience or coping strategies (56%), lack of flexibility (rigid thinking or difficulty adapting to*

[15] Ibid.

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

[17] 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

change) (44%) and oversensitivity to stimuli (26%). In one-third of cases, physicians noted there was 'no prospect of improvement' as ASD and intellectual disability are not treatable.

Euthanasia for multiple geriatric syndromes

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*."[18]

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.[19]

In 2022 there were 379 cases of euthanasia involving "multiple aging disorders" – up 23.45% from 2021.[20] These cases represent the kind of "tired of life" cases discussed by the KNMG.[21]

More than four out of ten (157 cases – 41.4%) of these 379 cases were carried out by doctors from the Expertisecentrum Euthanasie (Euthanasia Expertise Centre).[22]

The Euthanasia Code 2022 published by the Regional Euthanasia Review Committees provides for euthanasia on the basis of "multiple geriatric disorders":

Multiple geriatric syndromes – such as sight impairment, hearing impairment, osteoporosis, osteoarthritis, balance problems or cognitive deterioration – may cause unbearable suffering

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[18] 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

[19] 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

[20] Regionale Toetsinggscommissies Euthanasie Jaarverslag 2022, p.13 https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2022/april/6/jaarverslag-2022/RTE_JV2022_def_2april.pdf

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

[22] Regionale Toetsinggscommissies Euthanasie Jaarverslag 2022, p.15 https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2022/april/6/jaarverslag-2022/RTE_JV2022_def_2april.pdf

> *without prospect of improvement. These syndromes, which are often degenerative in nature, generally occur in elderly patients, and a combination of these syndromes and the related symptoms can cause suffering. For these patients, too, the suffering and its unbearable nature are connected to matters such as life history, personality and stamina.*[23]

Of the 205 cases of euthanasia for "a stack of old age disorders" reported for 2018, 66 cases 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 or hearing

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]

The *Euthanasia Code 2022* includes sight impairment and hearing impairment in its definition of "multiple geriatric syndromes".[26]

The 2023 annual report refers without further comment to "blindness" as one of the "other conditions" for which euthanasia was performed.

Euthanasia for a broken hip

In Case 2023-120 the Review Comittees approved the action of a doctor who euthanased a men in his nineties within two weeks after the man had a fall and broke his hip. The loss of independence and need for care was held to be suffering that could only be relieved by ending the man's ;life through euthanasia.

Euthanasia for alopecia

In Case 2021-28 the Review Committees approved the action of a doctor who euthanased a woman in her 90s on the ground that she was concerned that as she needed more personal care with ageing, she would not be able to hide her alopecia (whole body baldness). The social geriatrician consulted

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[23] Regionale Toetsingscommissies Euthanasie*, Euthanasia Code 2022*, p.22 https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/publicaties/ec-2022/ec-2022/7/5/RTE_EuthaCode2022_English.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] Regionale Toetsingscommissies Euthanasie*, Euthanasia Code 2022*, p.22 https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/publicaties/ec-2022/ec-2022/7/5/RTE_EuthaCode2022_English.pdf

did not support the opinion of the doctor from the Euthanasia Expertise Centre that the woman's suffering from this concern could only be relieved by euthanasia.[27]

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*".[28] By the end of 2014 there were 29 mobile teams and the clinic dealt with 1035 requests for euthanasia in 2014.[29] This approach bypasses any need for the person's regular physician to be involved in the 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.[30]

Couple euthanasia

In 2018 nine couples were euthanased together.[31] 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.[32]

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[27] https://www.euthanasiecommissie.nl/uitspraken/publicaties/oordelen/2021/2021-21-tm-2021-40/oordeel-2021-28

[28] 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

[29] 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

[30] 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

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

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

In 2022, the number of couples euthanased together was 29 (up 81.25% from 2021).[33]

In one of these cases, contrary to the *Euthanasia Code 2022*, the same consultant was used for both spouses.

In 2023, 33 couples were euthanased together.

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.[34]

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 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.[35]

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*".[36]

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

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[33] Regionale Toetsinggscommissies Euthanasie Jaarverslag 2022, p. 17, https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2022/april/6/jaarverslag-2022/RTE_JV2022_def_2april.pdf

[34] "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/

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

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

- 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; [37]
- 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;[38]
- 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.[39]

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.[40]

Since 2016 the Board has finalised 23 other cases [41] 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.

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

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

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

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

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

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.[42]

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.[43]

In Case 2022-006 a woman is reported as requesting euthanasia for post-stroke issues, including a loss of speech and of autonomy, by responding "to closed questions with head movements".[44]

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

[43] 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

[44] Regionale Toetsinggscommissies Euthanasie Jaarverslag 2022, p. 33, https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2022/april/6/jaarverslag-2022/RTE_JV2022_def_2april.pdf

Euthanasia despite resistance

The district court in the Hague has ruled that a person with dementia may be euthanased even if the person is actively resisting the process provided that an advanced directive requesting euthanasia was completed when the person was considered competent.[45]

The case involved a 74 year old woman whose coffee was drugged and who was forcibly restrained by family members while a doctor administered a lethal injection. She had said just a few days before that she didn't want to die.

However, the Court ruled that as she was now demented neither her contemporary expressions of a desire to live nor her active resistance were of any legal value. They were trumped by her previous written declaration.

The legal question posed by the case was stated by the Court:

Does the physician have a duty to verify the current desire for life or death of an incapacitated, deeply demented patient in order to speak of a voluntary, well-considered request for euthanasia?

The Court's answer was a clear **no**.

The court is of the opinion that the doctor did not have to verify the current wish to die. The patient was deeply demented and completely incapacitated. The use of pre-medication [that is drugging her coffee] was discussed with the family and doctors and was not negligent in this case.

The written advanced declaration signed by the woman included the following paragraph:

This euthanasia request remains in full force regardless of the time that may have elapsed since it was signed. ***It is completely clear to me that I can withdraw this euthanasia request.*** *By signing this euthanasia request I therefore* ***consciously accept the possibility that a doctor will respond to the request, about which I might have started to think differently in the case of current awareness****.*

There is an apparent contradiction in this paragraph. On the one hand the request can be withdrawn; on the other hand the doctor can act on the request even if the person has "started to think differently".

[45] Rechtbank Den Haag, Zoekresultaat - inzien document ECLI:NL:RBDHA:2019:9506, https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2019:9506

The Court essentially decided that as soon as a person with dementia becomes incapable of the level of decision making required to make a valid request for euthanasia, the person then can no longer validly revoke a previously made advanced directive for euthanasia.

In the opinion of the court, it would be contrary to the purport of the [euthanasia law] that a person who once became incapable of doing something would be able to revoke a legally valid euthanasia request previously made by him or her.

The Court considered evidence from the woman's GP who had met with her on 28 January 2016, three months before she was euthanased on 22 April 2016. The GP testified:

I wanted to know what she was like and what she thought about this [euthanasia]. I asked how it went and she said "it goes well". I then asked about admission and euthanasia. She didn't know what that was, the euthanasia. I explained it to her and at that moment she said, "no, I don't want that." I explained to her that she would be admitted and that she had to stay there and that she had previously indicated that she did not want that and then ***I started talking about euthanasia. She said: "yes, maybe I want it, but not now."*** *You ask what my impression of her was, if she still understood. No. (…) For me it was the moment that she did not know exactly what euthanasia meant. You ask if I had the impression that she understood me after I explained what euthanasia meant. Yes, because I explained it to her. Because of her reaction to this, I felt that she understood what I meant. (..)*

Counsel asks me whether (patient) was competent on euthanasia on this day, 28 January 2016. Not as far as I can judge. You, Commissioner-in-Law, ask me to explain why not. Before my explanation of euthanasia, she did not know what it meant. I had to go so far that ***I told her she would get an injection and not wake up. Only then did she say "no, no"****.*

The geriatrician who euthanased the woman testified about an exchange with her on 10 March 2016, just seven weeks before she was euthanased:

(…) March 10, 2016 (...) Then I ask if she hates dementia. She does not recognize that word. I ask further whether she is troubled by the fact that she has less good memory and whether she finds it bad. She replies that she had that, but that this is already better, luckily. Then I ask her if she would rather be dead: yes, if I get sick, I will, ***but not yet***

The Court dismissed medical guidelines requiring a doctor to check whether a person has a current desire before euthanasing him or her.

The court is aware that in the medical world guidelines have been drawn up about medical treatment in euthanasia in which the position is taken that the treating physician must also try to verify the patient's position on his current euthanasia desire even in the case of incapacitated persons. However, as is clear from the legal history cited above, that position is stricter than the law. From the point of view of medical care it may be advisable to speak with

the person. However, the court was unable to see the need for this, let alone that there is a legal obligation to do so.

Any resistance can just be dismissed as "reflexive reactions that did not penetrate the consciousness of the patient."

In April 2020 the Review Committee amended the Euthanasia Code to reflect the Court findings as endorsed by the Supreme Court. The Euthanasia Code 2022 in a section headed "ADVANCE DIRECTIVE: POINTS TO CONSIDER " sets out the following points:

- Is the patient no longer capable expressing their wishes with regard to euthanasia?

- Was the patient decisionally competent with regard to euthanasia when they set out that request in their advance directive?

- Have the due care criteria been met to the greatest extent possible in the given situation? The physician must apply the due care criteria in a way that does justice to the exceptional nature of the case.

- Does the patient's current situation correspond to the situation described by the patient in their advance directive? The physician can interpret the advance directive with a view to determining the patient's intentions.

- Are there any contraindications that preclude the performance of euthanasia?

- Is the patient suffering unbearably?

- In addition to the independent physician, has the physician consulted an expert on the patient's conditions?

- Is premedication required? If no meaningful communication is possible with the patient, it is not necessary for the physician to consult with the patient about what method will be used (including the administration of premedication).

In Case 2022-043 a woman who had made an advanced declaration requesting euthanasia for dementia was given a sedative in her apple sauce and 45 minutes later killed by euthanasia.[46]

There were 9 cases of euthanasia based on an advanced directive in 2023. 8 cases involved a person with dementia and 1 involved a person with a cerebral haemorrhage.

In Case 2023-065 a man who had made an advanced directive requesting euthanasia for Alzheimer's Disease was administered drugs to "soothe the man before the execution" of euthanasia, the man was given 30 mg of midazolam by a regular trusted nurse. This was justified, according to the Review

[46] Regionale Toetsinggscommissies Euthanasie Jaarverslag 2022, p. 53, https://www.euthanasiecommissie.nl/binaries/euthanasiecommissie/documenten/jaarverslagen/2022/april/6/jaarverslag-2022/RTE_JV2022_def_2april.pdf

Committees, “due to the man's troubled behaviour and the possible manifestations of anger, frustration and physical aggression”. “This caused the man to fall asleep. The doctor then performed the euthanasia in the presence of the wife and children in accordance with the Guideline.”

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.’[47]

Organ removal after euthanasia

24 cases of organ/tissue retrieval after euthanasia were reported in 2023 – up from 6 cases reported in 2022.

Child euthanasia (12-17 years of age)

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 20 children have been given euthanasia, including a **12 year old child** in 2005, a 16 year old child in 2015, five 17 year old children between 2002 and 2015, two children (aged 16 or 17 years) in 2016, three children in 2017 (one aged 16 or 17 years, other two cases no case report), three children (aged 16 or 17 years) in 2018, one boy (aged between 12 and 16 years) in 2020, one boy, aged 16-17 years in 2021, one child aged 12-15 years in 2022 and two children aged 16-17 years in 2023.

All cases with detailed case reports (14 out of 20) involved end stage cancer. It is not known what the underlying condition was for the other six cases.

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[47] “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

Child euthanasia (0-12 years of age)

The intentional termination of life without request remains unlawful in the Netherlands, but always subject to the possible defence available under Section 40 of the Netherlands Criminal Code:

Any person who commits an offence under the compulsion of an irresistible force shall not be criminally liable.[48]

Since 2007 a regulation has been in force providing for the assessment by an expert committee of acts by a doctor to intentionally terminate the life of a newborn (a child under 1 year of age). Doctors who perform such life-ending acts are supposed to report the details to this committee, which then sends its assessment to the Public Prosecution Service for a decision on whether or not to prosecute.

Article 7 of the current regulation (which has been in force since 1 February 2016) states:

In the case of termination of life in a newborn, the doctor has acted carefully if:

a. in the opinion of the doctor, the newborn is suffering hopelessly and unbearably, which means, among other things, that cessation of medical treatment is justified, that is, according to prevailing medical opinion it is established that intervention is futile and that according to prevailing medical knowledge, there is no reasonable doubt about the diagnosis and the prognosis;

b. the doctor has fully informed the parents of the diagnosis and the prognosis and the doctor and the parents have come to the conclusion that, for the situation in which the newborn is, there is no other reasonable solution;

c. the parents have consented to the termination of life;

d. the doctor has consulted at least one other, independent doctor, who has expressed his opinion in writing about the aforementioned due care requirements, or, if an independent physician could not reasonably be consulted, has consulted the treatment team, which in writing has given its opinion on the aforementioned due care criteria;

e. the termination of life has been carried out with medical care.[49]

Only three such cases have been considered by the committee since 2007.

In 2009, the committee approved as having acted carefully a doctor who ended the life of a 10 week 6 day old boy with Junctional Epidermolysis Bullosa (JEB) - generalised severe type by an injection of rocuronium.[50]

A 2015 case was found not to involve the intentional termination of life without request.[51]

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[48] https://www.legislationline.org/download/id/6415/file/Netherlands_CC_am2012_en.pdf

[49] Regulation for the Assessment Committee for Late Pregnancy Termination and Termination of life In Newborns, https://www.lzalp.nl/documenten/regelingen/2016/januari/26/regeling-beoordelingscommissie-late-zwangerschapsafbreking-en-levensbeeindiging-bij-pasgeborenen

[50] https://www.lzalp.nl/publicaties/oordelen/lp/2009/lp-2009-001

[51] https://www.lzalp.nl/publicaties/oordelen/lp/2015/lp-2015-001

In 2017 the ending of the life of an infant with a serious neurological disorder and life expectancy of less than 10 years performed by a doctor injecting 15 mg of rocuronium was assessed by the committee as the doctor having acted carefully.[52]

In 2021, six children aged less than 1 year with congenital anomalies were killed by intentional by the administration of lethal drugs.

In January 2022 the Netherlands Minister for Justice and Security to extend the regulation to cover children aged between 1 and 12 years of age. The Public Prosecution Service replied to the Minister with an analysis rejecting this proposed extension.[53]

However, on 14 April 2023 the Minister for Health, Welfare and Sport announced that the existing regulation would be broadened before the end of 2023 to apply to children aged up to 12 years and streamlined to allow for more ready approvals to euthanase children.

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".[54] 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.

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[52] https://www.lzalp.nl/publicaties/oordelen/lp/2017/lp-2017-001

[53] https://www.om.nl/documenten/wetgevingsadviezen/2022/4/11/ontwerpregeling-levensbeeindiging-kinderen-1-tot-12-jaar

[54] 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

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 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 even in the face of active resistance from the person.