

## FREE MOVEMENT OF PEOPLE: TOURISM FOR EUTHANASIA

## ВІЛЬНЕ ПЕРЕСУВАННЯ ЛЮДЕЙ: ТУРИЗМ ДЛЯ ЕВТАНАЗІЇ

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The article is devoted to one of the most pressing topics of our time – suicidal tourism. Euthanasia is the interruption of life, which for medical reasons has become impossible, and life with torment is unbearable for a person. It relates to one of the acutely debated problems of law, philosophy and medicine; it raises questions such as: does a person have the right to voluntarily dispose of his life, where the boundary between life and death, whether life is an absolute value, or always a life saving benefit to a person etc. Today in the world there are two completely opposing positions regarding the right to choose between life and death. The legislation of different states is very different in the matter of euthanasia. In every country of the world there live people who need a decent death, but the list of states in which it is legalized is rather narrow. Euthanasia is permitted in Luxembourg, the Netherlands and other countries. But only in Switzerland, it is legal for foreigners. Many people are forced to commit suicidal tourism in order to exercise their right to die.

In this paper we analyzed the current problems caused by the free movement of people for the implementation of euthanasia in Switzerland. The opinions of the philosophers of the Enlightenment on the question of the right to worthy death were given. The differences between suicide and euthanasia were identified, and the conditions under which the act of euthanasia would be successfully carried out for foreigners in Swiss clinics were outlined.

**Key words:** euthanasia, death, tourism, right to death, Switzerland, suicide, suicidal tourism, free movement of people.

Стаття присвячена одній із найактуальніших тем сьогодення – суїцидальному туризму. Законодавство різних держав дуже відрізняється у питанні евтаназії. У кожній країні світу живуть люди, які потребують гідної смерті, проте перелік держав, в яких вона легалізована, досить вузький. Евтаназія дозволена у Люксембурзі, Нідерландах та інших країнах. Але лише у Швейцарії вона легальна для іноземців. Багато людей вимушені здійснити суїцидальний туризм, щоб використати своє право на смерть. У даній роботі проаналізовані актуальні проблеми, зумовлені вільним пересуванням людей задля здійснення евтаназії у Швейцарії.

**Ключові слова:** евтаназія, смерть, туризм, право на смерть, Швейцарія, суїцид, суїцидальний туризм, вільний рух людей.

Статья посвящена одной из самых актуальных тем современности – суицидальному туризму. Законодательство разных государств сильно отличается в вопросе эвтаназии. В каждой стране мира живут люди, которые нуждаются в достойной смерти, однако перечень государств, в которых она легализована, достаточно узкий. Эвтаназия разрешена в Люксембурге, Нидерландах и других странах. Но только в Швейцарии она легальна для иностранцев. Многие люди вынуждены совершить суицидальный туризм, чтобы использовать свое право на смерть. В данной работе проанализированы актуальные проблемы, обусловленные свободным передвижением людей для осуществления эвтаназии в Швейцарии.

**Ключевые слова:** эвтаназия, смерть, туризм, право на смерть, Швейцария, суицид, суицидальный туризм, свободное движение людей.

### Introduction

One of the most pressing problems of the present is the problem of legal status in society. According to many international instruments, a person is the highest social value of any state, and its rights and freedoms are considered fundamental. The “right to life” is very important when using euthanasia. Especially we must understand whether everyone has the right to fully dispose of their own lives?!

There always is a thin line between killing and saving as well as between dying and living. However pleasing it may be to listen to, the only existing way of letting go of this world – we say, euthanasia – was not designed primarily for purposes of killing other human beings.

Yes, life is valuable. Yes, we must assist those, whom we love truly and deeply. But then a question arises – what if your beloved one wants to die? Is it a murder? Is it a crime? Or is it totally morally acceptable?

As unusual as it may sound, passive euthanasia may be the answer as it does not force a person to engage into the act resembling murder.

What do those who die from severe pains, but have to tolerate them, because at home no one has the right to help him voluntarily to die?

One of the main principles of the legal order in Europe is the free movement of people. Although Switzerland is not a member state of the European Union, it has an associated status. This gives it the opportunity for mutual free movement of people: the residents of Switzerland are free to visit the territory of the European Union, and its inhabitants are safe to travel to Switzerland. Some people use this right to deprive themselves of the painful unbearable suffering that they feel because of an incurable disease.

### Historical and legal aspect of development and formation of the institute of euthanasia

The works of Francis Bacon “On the Dignity and Enrichment of Sciences” and “New Atlantis” have made a tremendous impetus to the development of euthanasia. They tried to solve the problem of life and death. However, Herberg Maren considered life to be most unusual and inalienable, and euthanasia was an example of violence against man. Philosophers of the Enlightenment, Charles Louis de Montesquieu, Denis Diderot, Jean-Jacques Rousseau said that suicide and euthanasia are the achievement of bliss from pain. Immanuel Kant considered euthanasia good to humanity. But the true supporter of euthanasia was Friedrich Nietzsche. The prominent philosopher argued that the war between the sick (lower) and the healthy (the higher) continued continuously. They should never be in contact so as not to become equal to each other. Frederick said that non-criminals should commit suicide.

For many years, the theme of euthanasia is debatable, and it is very vividly debated in society. Because of this society was divided into 2 groups: supporters and opponents of euthanasia. Each of them is right in their own way.

An ambiguous assessment of euthanasia from a legal point of view was caused by controversial views on this phenomenon from the medical and moral-ethical side. It was fixed at the legislative level in different countries. Today in the world there are two completely opposing positions regarding the right to choose between life and death. Prohibition of any form of euthanasia is supported by conservatives, but liberals also require the legalization of euthanasia for incurably sick people. It should be noted that many countries consider euthanasia as a crime. First we need to understand the difference

between the terms. A major difference is between euthanasia and suicide. At the end, each of these actions leads to the death of the patient, but in the case of suicide, the final act is performed by the patient himself, while at euthanasia – death is caused by a doctor.

In Russia, Azerbaijan, Ukraine and Kazakhstan euthanasia of people is prohibited by law.

However, some countries still enforce the right to die in their legislation. A book “Permission for Life” by A. Hoch and K. Binding, published in 1920, was a major influence on the medical consciousness of Europe. The Netherlands was the first country which legalized voluntary death. In 1984, the Supreme Court of this country recognized euthanasia as acceptable, and in 2001 the Netherlands legalized euthanasia and introduced it into the healthcare sphere first not only in Europe but also in the world. [1] Young people aged 12 to 16 years must have parents’ consent for euthanasia. There is also a list of conditions that a health worker must do before the procedure, namely, to ensure that the request is independent, repeated, and that suffering is long and unbearable. In addition, the patient should be aware of the state of his health at the moment and about the possibilities of recovery. Another condition is the unanimous decision of the collegium of doctors in each individual case. Every year, about 3,000 hopelessly ill Dutch people have ‘easy death’.

The second in the question of legalization of euthanasia was Belgium. In 2002, this country adopted a law that defines euthanasia and assistance in suicide are lawful, but in the presence of certain conditions. In 2003, 200 dead finished their life by euthanasia and 360 in 2004. In April 2005, Belgian pharmacies began selling special kits for euthanasia, this simplified the procedure for voluntary withdrawal, but this kit is only allowed for a practitioner. This doctor should be prepared to prove that the decision is right in the court. According to the legislation of Belgium an incurably sick person who is already 18 years old can resort to euthanasia. The doctor can implement euthanasia only after repeated written inquiries confirming the patient’s diagnosis and his firm decision. In 40 per cent of cases of euthanasia, according to official statistics, it is realized in the patient’s home.

There are other countries in the world who do not consider euthanasia as a crime. These include Switzerland, Germany, Sweden, Finland and others. In them, euthanasia is not legally prosecuted.

However, the majority tends to believe in the inadmissibility of the use of euthanasia. The international normative legal acts regulating the rights to life and indirectly raising the issue of euthanasia includes the Universal Declaration of Human Rights on December 10, 1948, the International Covenant on Civil and Political Rights on December 16, 1966, and others. In particular, the European Court of Human Rights in all cases considered by it concerning the right to life consistently emphasized the duty of the state to protect life. In this regard, Article 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms cannot be construed as implying a diametrically opposite right – the right to die. And the Council of Europe (25 June 1999) identified the priority not of the legalization of euthanasia, but of the development of palliative care, the elimination of pain, and the comprehensive support of patients, members of their families and other persons caring for sick people who are dying [2, p. 43–47].

Different societies and foundations that developed and disseminated the ideas of euthanasia are beginning to appear in the twentieth century. The first such organization, the Society for Voluntary Euthanasia, was established in the capital of Great Britain in 1935. Its functions were aimed at spreading the ideas that a person with a fatal illness has the right to painless death and the creation of appropriate legislation. The next country was the United States of America. In 1938, such a ‘Society for the right to die’ was created in the United States. In 1973, societies in support of euthanasia originated in

the Netherlands and Sweden, in 1974 in Australia and South Africa, in 1976 in Denmark and Japan, in 1977 in Norway, in 1978 in New Zealand, in 1980 – in France, Scotland, in 1981 – in Germany, Canada, India and Zimbabwe. [3, p. 342–344] Just over 50 years later, the World Federation of the Right to Death was established.

#### **Suicide tourism**

The free movement of people is a fundamental acquis of European integration. The gradual phasing-out of internal borders under the Schengen agreements was followed by the adoption of Directive 2004/38/EC on the right of EU citizens and their family members to move and reside freely within the EU [4].

The free movement covers the right to enter and circulate within the territory of another Member State, as well as the right to stay there, to work and live under certain conditions, after occupying a position of work. Every citizen in the Union has the right to travel freely to another Member State and remain there for a short period of at least three months without having to show any document other than his valid ID card or passport. [5].

Quite often, such a trip becomes the last for a certain circle of people. Most often it is used by those citizens in countries where euthanasia is prohibited by law.

Today, Switzerland can rightly be called a “fake” of suicidal tourism, because it is the only country in the world where the euthanasia of foreigners is legalized.

In 1941, the Swiss Canton of Zurich received permission to exercise euthanasia, but its legalization for Swiss citizens took place only in 2006, and for foreigners – in 2011. From year to year, the number of such tourists is only increasing. Each year, more than 200 tourists from different countries of the world come to Switzerland. With regard to the procedure, it is as follows: first, the patient meets with the clinic staff and an independent specialist; secondly, the doctors’ commission evaluates the documents and assigns the next meeting; and thirdly, just before the act of euthanasia, the patient is once again informed that the injection is fatal.

The most common cause for a request for euthanasia is neurological diseases, rheumatic diseases, mental illness and oncology. However, there are cases when a person who is quite healthy is asking for a decent death.

Swiss legislation on euthanasia is very different from the legislation of other countries. Firstly, the Swiss law does not consider doctors as the sole subject of assistance in suicide. Many clinics carry out the act of euthanasia with the help of clinical workers and volunteers. On the contrary, the Netherlands and two US states, Oregon and Washington, require the doctor to control the death of the patient. Secondly, Switzerland does not require the opinion of another consultant, only one is sufficient. In other countries where euthanasia is not prohibited by law, several health workers should give their consent before the act of euthanasia is carried out. [6] Thirdly, significant feature of the Swiss law is that it does not require that the patient be terminally ill or suffer from a severe physical disability. [7, p. 509–510]. In addition, there is no requirement for citizenship in Swiss legislation, making Switzerland the most popular place for suicide bombers. Switzerland is currently the only country that offers a unique opportunity for suicide abroad.

Due to the large number of patients in such clinics as Dignitas, which assist in the implementation of the euthanasia procedure, Switzerland is considered the deadly tourist capital of the world.

Euthanasia was very popular in Zurich. The media have repeatedly called Zurich a place of suicidal tourism. Many of the city’s residents believed that it would disgrace their city. As a result, a referendum was held in 2011 on the initiative of the Federal Democratic Union (FDU) and the Evangelical Party (EVP). However, an overwhelming majority of Zurich residents rejected a request for a ban on euthanasia.

In 2016, British director and restaurant critic Michael Winner was given a terrible diagnosis, an incurable liver disease, and had a lifespan of no more than a year and a half. Michael started looking for a clinic. Subsequently, he stopped at the Swiss clinic Dignitas, but this was preceded by a whole study.

“You can’t come and say: “Here I am, work.” You need to go through a number of procedures and surveys to die. You have to fill in various forms and all that, and you will have to return there at least twice. I think the thought that a person should have the opportunity to commit suicide is absolutely correct. Why do people have to live if it brings them suffering? People should have the right to end their lives. I am very glad that I have such an opportunity. I spent enough time on Earth I would be happy if someone hundred “off to me”, – said the director. [1]

#### Conclusion

Deadly tourism as a free movement of people causes a lot of social and political questions. In accordance with different

ideological beliefs and political views there are rather ambiguous opinions on this topic. Some believe that mortal tourism allows patients to leave this world with dignity, if it is forbidden in their country. Others, on the contrary, emphasize that this is a violation of the principles of mutual belonging and sovereignty.

Euthanasia is the interruption of life, which for medical reasons has become impossible, and life with torment is unbearable for a person. In this situation it is difficult, and sometimes impossible, to follow the traditional norms of medical ethics. There is a collision of the opposite factors: relief of suffering and prolonged life. Obviously, euthanasia is not only a medical but also a complex social problem. The problem of euthanasia is one way or another reduced to the problem of ‘quality of life’.

There are currently only a few countries that allow assisted suicide. [8, p. 105]. Of these nations, only Switzerland has thus far played a significant role in the death tourism industry [8, p. 106].

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