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Euthanasia - Between Good Death and Christian Death

Nelu Gheorghită¹

Abstract: The question of euthanasia has a complex evolution, generating debates in legal media. The fact that certain countries have authorized the use of such means to end someone's life has caused a dangerous void in the legal system. It consists of the danger to end the life of foreign citizens in those countries in which euthanasia is legal, although the native countries of those citizens incriminate such means. Conflicts rise, involving the law applicable in such cases. There is no agreement in the world on the problem of euthanasia and medical assisted suicide. Public debates on the opportunity of legal acceptance are only a “gold subject” for sociologists or a “hot one” for the journalists, but they are a real need in some countries. The whole experience in the world gives us no acceptable, simple and easy to apply solutions. Unfortunately, nowadays, or in the near future we can not expect for a unitary point of view in the field of euthanasia.

Keywords: euthanasia; medical assisted suicide; mercy killing; right to life

Introduction

Life is such a complex phenomenon that the legislator did not have the courage to define it. That is why it must be accepted that, generally speaking, life is a complex biological and physiological process whose opposite is death. The European Court of Human Rights (ECHR) has ruled that the article no 2 of the European Convention on Human Rights aims at ensuring protection against the occurrence of death, which means a right to life and not a right to death².

The attitude towards the dying, in the final stages of the disease, is a matter of connection between the humanities, religion, law and medicine. In some states, deliberately taking someone's life, is what we call euthanasia.

The term euthanasia comes from a Greek word and means “good death.” It is a conscious act that leads to a sudden and painless death of a terminally ill person, with the intention of ending his suffering. It should be noted that the term euthanasia was introduced by Francis Bacon (1561–1626), who gave it a purely philosophical meaning. In his view, euthanasia means a “good, peaceful, happy death”.

¹ Research Assistant, Danubius University of Galați, Romania, Address: 3 Galati Blvd., 800654 Galati, Romania, Corresponding author: g_nelu1972@yahoo.com.

² Case Pretty v. The United Kingdom, no. 2346/02, judgment of April 29, 2002, in European Court of Human Rights – Research Report – Bioethics and the case-law of the Court, Council of Europe/European Court of Human Rights, 2012, www.echr.coe.int., accesat în 12.04.2021.

Euthanasia involves a set of medical actions or nonactions, having ethical and legal support and being in the interest of the patient, in the sense that it leads to shortening his suffering, which currently, from the point of view of medical science, does not benefit from an etiological treatment, but on the contrary - the prognosis is a near and inevitable end.

Under the pretext of a dignified death, euthanasia was supported throughout time by Plato, Aristotle, Voltaire, Thomas Morus, Francis Bacon, David Hume and many other Nobel Prize-winning philosophers and laureates, but the idea was born when man began to be aware of what suffering and death are.

There are, of course, many voices condemning euthanasia, especially the Christians who see life as sacred, a divine gift, and suffering as a way of purifying the human soul.

In the literature of speciality, euthanasia has been classified according to two criteria:

- the patient's consent (voluntary, nonvoluntary and involuntary);
- the method and means of implementation (active and passive euthanasia).

The patient's agreement expresses his will, shows whether or not he is a competent person, meaning whether or not he has the capacity to freely express informed consent (information and understanding of the reality of the diagnosis and prognosis of his disease and alternative care); it is also considered that the patient does not show treatable depressive symptoms.

The way and means of accomplishment refer to the way in which the doctor acts, either by active means (by resorting to a thanatogenic procedure), or by not instituting or limiting, the interruption of some therapeutic measures.

According to the patient's will, consent and ability to integrate into the social sphere, but also the level of information on the reality of the diagnosis and prognosis of his disease, euthanasia can be:

- voluntarily, when the terminally ill patient is competent, having discernment unaffected by the disease, without suffering from treatable depression, repeatedly asking the attending physician to shorten the suffering due to unbearable pain and/or loss of dignity, being aware that no longer there is no therapeutic solution. All permanent references to legalization have been made and are only made in this category of euthanasia.
- involuntarily, when the patient, although he has the ability to decide, is not consulted on the fatal gesture or has previously stated that he does not want to be euthanized. Basically, the person would have been able to give or refrain from giving his consent, but he did not give it, either because he was not asked, or because he was asked, but he refrained from giving it, because he still wanted to live. In the case of involuntary euthanasia, the expressed will of the person to refuse euthanasia is sometimes ignored (there are rare cases, usually encountered in case of war, natural disasters, etc., with many victims, when medical help is focused on people with chances of survival, into the detriment of seriously injured persons, in whom death may occur in the following minutes or hours);
- nonvoluntarily, when the life of a patient who cannot choose between living and dying himself ends, the subject's agreement cannot be obtained because of his mental or physical condition. It is found in cases of fetuses, plurimalformed newborns, unconscious patients, those in persistent vegetative state, in the cases of patients with severe mental illness or who, due to illness or an accident, are not autonomous (have lost the ability to act responsibly), but without mentioning before or after the illness or accident whether he would like euthanasia in such a situation. The

cases in which, for the interruption of life, the consent is given by the family or it is obtained by a court decision, are assimilated to involuntary euthanasia.

According to the doctor's action, there are two types of euthanasia:

- active (mercy killing) occurs when death is deliberately and actively produced by positive means. This type of euthanasia involves the intervention of a person (who is not necessarily the attending physician) in the occurrence of death, by using a thanatogenic means (drug overdoses, inhalation of carbon monoxide or anesthetics, intravenous injections of air, insulin or potassium chloride);
- passive (letting die, mercy dying) occurs when death is deliberately caused by not instituting or interrupting routine nutrition or treatment measures. It involves speeding up the death of a person by a doctor by: removing life support equipment; discontinuation of any intensive treatment; discontinuation of water and food; providing only minimal, comfortable care. Procedures of this kind are applied in the case of: incurable patients in terminal stages, in which natural death will soon occur anyway; people with persistent vegetative state - individuals with significant brain damage, who are in a coma from which they will never recover. Passive euthanasia therefore consists of failing to apply or discontinuing life-assuring treatment (Vasilachi, 2012, pp. 49-54).

The history of euthanasia goes a long way back in the antiquity. The Greeks and Romans allowed euthanasia in certain situations. Things changed later when the Christian religion appeared, which spoke of the sacredness of life and the fact that it was given by the divinity.

In the twentieth century, numerous organizations were formed that advocate for or against euthanasia. The first one was founded in 1935 by a group of London doctors and it was called the Voluntary Euthanasia Society. This was followed by the Hemlock Society of the United States.

Euthanasia was first practiced in twentieth century in the fascist Germany. According to the Nuremberg Trials, from 1939 to 1941, 7,000 people were killed, being categorized as “beings deprived of the quality of life.”

Nowadays, euthanasia is applied to the terminally ill, but also to the children with serious birth defects. This is called “euthanasia of newborns.” More recently, a so-called “social euthanasia” has emerged, starting from the logic that all the costs of treating the ill, who need very expensive drugs but have no hope of cure, could be used for those who have a chance of complete recovery. Euthanasia is increasingly accepted in the light of an “aging population” and the growing number of elderly disabled people. In fact, these types of “worthy death” are not new. In Sparta, for example, the children born weak or ill were killed. Other primitive cultures used to kill or abandon the elders who became a burden to their families. In short, euthanasia is based on two concepts: pity for patients who “have no future” and justice for their families.

There is a difference between active and passive euthanasia. The active one is made by lethal chemical dosing, administered by a doctor. Passive euthanasia means stopping the administration of a vital medicine to hasten the patient's death. However, euthanasia is always passive if you look at the patient's point of view, and active from the position of the person administering it.

“Dignified death” means leaving this life without pain, without suffering. Thus, the destruction of human life is seen as a good deed. In 1974, the “Euthanasia Manifesto” was published, signed by more than 40 personalities, including Nobel Prize winners. It said: “We say that it is immoral to accept and impose suffering. We believe in the value and dignity of the individual, from which arises the need to allow him

the freedom to decide rationally what to do with his life. In other words, every person has the right to commit suicide.¹

The concept of human rights, as a new ethical ideology according to which life is inalienable, sacred, unique and inviolable, both physically and spiritually, also determines the legal point of view on euthanasia.

All constitutions consider life as being dignified and most laws criminalize passivity towards a person in danger and especially the help given for suicide. However, those who performed such practices received symbolic punishments or even benefited from leniency. Most lawyers argue that decriminalizing euthanasia would lead to new acts of racism and that is why in most countries the law criminalizes this practice.

The Romanian legislation does not allow euthanasia. The Art. 22 of the Romanian Constitution mentions that “the right to life as well as the right to physical and mental integrity of the person are guaranteed”. Usually, the legal classification of euthanasia in Romania constitutes the content of the crime of determination or the facilitation of the suicide of a person, provided and punished by art. 179 of the Criminal Code or the crime of murder provided and punished by art. 174-175 of the Criminal Code.

Today, euthanasia exists at the legislative level in the Netherlands, Australia, Belgium, Luxembourg and Oregon (USA). Switzerland has also become a “suicide tourism” country, after DIGNITAS helped more than 50 people to be killed. Zurich is called the “world capital of euthanasia”.

In the Netherlands, euthanasia is legal for incurable patients, in the absence of alternative treatments, after a conscious and repeated approved request and with the forensic verification of the entire file.

In Oregon (USA) it is added the condition of lack of survival over 6 months and a request made at least three times.

In Australia, computer suicide monitoring is added, and everything is set up for a lethal injection with effects in 30 seconds (Scripcaru, Ciucă, Astărăstoae & Scripcaru, 1998, pp. 188-189).

Recently, the Spanish Parliament also approved the legalization of euthanasia and assisted suicide. The text of the law stipulates that a person suffering from a serious, disabling or incurable disease may be helped to die if he makes a request to do so, in order to avoid intolerable suffering. The request must be made in writing and repeated after 15 days. It will have to be accepted successively by two doctors and subsequently examined by a commission. Doctors may refuse to take part in euthanasia, citing conscientious objection. The law, which can be used by adults with legal residence in Spain, will be applied within three months to allow the creation of regional control commissions that will examine and authorize applications. There are signs that other countries will soon legalize euthanasia. For example, the Supreme Court of Great Britain approved the request of a paralyzed woman who wanted her doctor to stop the artificial pulmonary ventilation that kept her alive, and in Portugal, the deputies approved in January, 2021 a law legalizing euthanasia, but the Constitutional Court rejected the text, which will be sent back to parliament.

Over time, many arguments have been made in favor of euthanasia, such as:

a) It is a way to stop the extreme suffering that patients go through in the terminal stage and to offer them a peaceful death. Usually, a dignified death is described as passing into the afterlife in a pleasant, familiar, and painless environment, as if you were falling asleep;

¹*Eutanasia-moarte demnă sau crimă premeditată*, pe www.doxologia.ro, accessed 13.04.2021.

- b) People should have the right to decide the time of their own death. In the eighteenth century, the Scottish philosopher David Hume argued in his essay on suicide, that in a free society people should have the right to choose how they want to die (Hume, 1783);
- c) Keeping a person alive, more than the natural lifespan (by connecting to appliances) is not moral;
- d) People should be allowed to die with dignity;
- e) The relatives of the ill should not endure the difficult moments in which they see their loved ones waiting for a slow and painful death;
- f) It would reduce the costs of caring for incurable patients.

The Christian Church has always condemned euthanasia as a violation of the divine commandment “Thou shalt not kill” or “kill the innocent and the righteous” (Exodus XXIII, 7). In the Christian vision of the Orthodox Church, sickness and death are the result of the sins. Man can fight disease and delay old age and death, but cancelling them is beyond his powers. The Sin is washed away by the sufferings of Christ, and death gives us the final opportunity to be cleansed. It is the last opportunity for love on earth. Such death - in repentance and love for the One who awaits us on the threshold of life - is respected in Orthodoxy as a good death.

Even if we take the most extreme example, when a dying body lost everything it depended on in earthly life and made it alive: consciousness, ability to move, speech, answering questions, even the power to look, in front of us lies a suffering body, because one can suffer without conscience, but he cannot suffer without a soul. The soul remains, living fully for the hour of death, more open to God than to people. The Orthodox Church gives its mysteries to the dying, and we do not know in what invisible mystery the final encounter with Jesus Christ will take place, but we know that He is always able to raise this body, to bring it back to life, and therefore the gates must be left open for a miracle of healing, and they must not be slammed shut. And this is the decision that only God makes, just as He, by himself, decides whether one will have a long life, possibly burdened with a serious illness.

Also the Catholic Church has condemned and continues to condemn euthanasia, starting with Pope Pius XII who wrote in his paper “*Mystics Corporis*”, from 1943 that: “Everything that opposes life itself, such as murder of any kind, genocide, abortion, euthanasia and even voluntary suicide, all these practices and others of this kind are a disgrace. They poison human civilization and defile those who commit them more than those who endure them. “The church bases its position on the fundamental Christian principles. Thus, on the one hand, the physician who took the oath of Hippocrates is the servant of life and cannot take the life of a man at his request, because he who asks does not have this right, the right to take life being a divine right, and on the other hand, as we have seen above, in the Christian vision, there is no unnecessary suffering, suffering and death being sacralized by the suffering and death of Jesus Christ on the cross”¹.

Also, from a legal point of view, Recommendation No. 1418 of the Parliamentary Assembly of the Council of Europe in 1999, on the protection of the human rights and dignity of the terminally ill and dying, notes for the first time that these people need care, calling on the Member states to protect their right to self-determination, without thereby recognizing a person's right to choose the time and manner for his or her death. Recommendation 1418 requires the Member states to support the ban on the taking of life of a terminally ill or of a dying patient for as long as:

¹Eutanasia- *Opinii și reglementări juridice în statele europene*, pe www.pharma-business.ro, accesat în data de 15.04.2021

- it is recognized that the right to life, especially in the case of these persons, is guaranteed by the Member States, in accordance with the provisions of art. 2 of the European Convention on Human Rights;
- it is recognized that the wish to die of a person who is dying, or terminally ill, cannot constitute a legal claim for the death of another person;
- it is recognized that the wish to die of a person who is dying, or terminally ill, cannot constitute a legal justification for carrying out intentional actions with a view to causing death.

In conclusion, we can say that, unfortunately, the quality of care received by the dying ones in Romania and around the world is far from what the current level of expertise could offer, and many die without adequate pain relief and a corresponding control of the symptoms.

The government and medical charities spend incomparably more on research and finding treatment for threatening diseases than on improving the quality and availability of palliative care. As a community, we must insist on a reorientation of priorities so that the care of the elderly, the chronically disabled and those with terminal illnesses receive the support they deserve.

In a society where millions of the elderly suffer from isolation, abandonment and the horror of abuse could the Romanian community offer compassionate and sacrificial care as a resource or will it give up this desideratum?

If it renounces this desideratum, the Romanian society will tacitly accept the opinion of those who show the need to legalize euthanasia in Romania and who claim that in relation to other legislations of European states, the Romanian medical legislation is far from satisfying the desideratum of rigorous regulation of borderline situations, such as those related to terminally ill patients, artificial feeding and hydration, situations of interruption of resuscitation procedures or the performance of certain therapies that ensure survival.

But in order that these people to be well cared for, at the end of their lives, it is necessary for the Romanian legislation to be supplemented with a new law to support the terminally ill, and which, through palliative care, is much better financed and organized, to give them the opportunity to have a quietly, painless, peaceful and more faithful in God and in the existence of the afterlife, end of their earthly life.

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