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BALANCING THE PROTECTION OF LIFE AND RESPECT FOR HUMAN DIGNITY: THE EUROPEAN DIMENSION OF THE RIGHT TO EUTHANASIA

БАЛАНС МІЖ ЗАХИСТОМ ЖИТТЯ І ПОВАГОЮ ДО ЛЮДСЬКОЇ ГІДНОСТІ: ЄВРОПЕЙСЬКИЙ ВИМІР ПРАВА НА ЕВТАНАЗІЮ

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The article is devoted to the analysis of the legal nature of euthanasia through the prism of balancing the state's duty to protect life and the individual's right to dignity and respect for private life. The relevance of the issue has been demonstrated through the need for a comprehensive study of the ongoing debate surrounding euthanasia as a legal and ethical phenomenon. The ethical and legal challenges associated with euthanasia, as well as the role of national and European legal mechanisms in preventing abuse and ensuring patient autonomy, have been analysed. Attention has been focused on the interpretation of the right to life as enshrined in such international legal instruments as the International Covenant on Civil and Political Rights and the European Convention on Human Rights, which leave room for complex ethical and legal debates regarding the scope of life protection. General Comment No. 36 of the Human Rights Committee has been examined, in which it is stated that the right to life concerns the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity. It has been emphasised that the protection of life cannot be reduced merely to its quantitative prolongation; instead, attention is drawn to the quality of life. Emphasis has been placed on the impossibility of including a right to die within the interpretation of the right to life. The European Court of Human Rights' decisions in Mortier v. Belgium, Karsai v. Hungary, and Haas v. Switzerland have been analysed. Attention has been focused on the approach of the European Court of Human Rights regarding the decriminalization of euthanasia, which leaves States a wide margin of appreciation. The importance of ensuring access to high-quality palliative care and effective pain management has been emphasised. The interrelation between the right to euthanasia and the right to respect for private and family life, as enshrined in Article 8 of the Convention, has been highlighted. The article demonstrates that neither EU legislation nor the European Convention on Human Rights prohibits member states from introducing their own rules on euthanasia. The main forms of end-of-life practices – active and passive euthanasia, as well as assisted suicide – have been identified, and their key characteristics have been outlined. Euthanasia has been classified according to the criterion of consent – voluntary and non-voluntary. It has been analysed which countries have enacted legislation allowing physicians to perform euthanasia under specific conditions. The Netherlands has been singled out as the first country in the world to legalize euthanasia. A detailed analysis of the Dutch system has been conducted, including the Termination of Life on Request and Assisted Suicide Act, and the clear procedural criteria required for the legal implementation of the procedure have been examined. Statistical data on the number of euthanasia cases in the Netherlands have been provided. It has been demonstrated that the right to euthanasia is not an independent right but arises from the interpretation of the European Convention on Human Rights.

Key words: right to life, euthanasia, assisted dying, human dignity, the duty to protect life, personal autonomy.

Стаття присвячена аналізу правової природи евтаназії крізь призму балансу між обов'язком держави захищати життя та правом особи на гідність і повагу до приватного життя. Було доведено актуальність проблемного питання через потребу всебічного дослідження триваючої дискусії щодо евтаназії як правового та етичного феномена. Проаналізовано етичні та правові виклики, пов'язані з евтаназією, а також роль національних і європейських правових механізмів у запобіганні зловживанням та забезпеченні автономії пацієнта. Було закцентовано увагу на тлумаченні права на життя, яке міститься безпосередньо в таких міжнародно-правових актах, як Міжнародний пакт про громадянські та політичні права та Європейська конвенція про захист прав людини і основоположних свобод, що залишають простір для складних етичних і правових дискусій щодо обсягу захисту права на життя. Було досліджено Загальний коментар № 36 Комітету з прав людини, у якому зазначено, що право на життя охоплює право людини бути вільною від дій чи бездіяльності, які мають на меті або можуть призвести до її неприродної чи передчасної смерті, а також право на життя з гідністю. Було наголошено, що захист життя не може зводитися лише до його кількісного продовження, натомість акцент зроблено на якості життя. Було наголошено на неможливості включення до інтерпретації права на життя надання права на смерть. Проаналізовано рішення Європейського Суду з прав людини у справах Mortier v. Belgium, Karsai v. Hungary та Haas v. Switzerland. Закцентовано увагу на підході Європейського Суду з прав людини щодо декриміналізації евтаназії, який залишає державам широкий простір для оцінки. Підкреслено важливість забезпечення доступності високоякісної паліативної допомоги та ефективного знеболення. Наголошено на взаємозв'язку права на евтаназію з правом на повагу до приватного і сімейного життя, закріпленим у статті 8 Конвенції. У статті продемонстровано, що ні законодавство ЄС, ні Європейська конвенція з прав людини не забороняють державам-членам запроваджувати власні правила щодо евтаназії. Було визначено основні форми закінчення життя – активна та пасивна евтаназія, а також асистоване самогубство, і окреслено ключові характеристики кожної з цих форм. Було виділено види евтаназії за критерієм згоди – добровільну та недобровільну. Проаналізовано, якими країнами було ухвалено законодавство, що дозволяє лікарям здійснювати евтаназію за визначених умов. Окремо було виокремлено Нідерланди як державу, що першою у світі легалізувала проведення евтаназії. Проведено детальний аналіз голландської системи, включно із Законом про припинення життя за запитом та асистоване самогубство, а також проаналізовано чіткі процедурні критерії, необхідні для законного проведення процедури. Надано статистичні дані щодо кількості випадків проведення евтаназії в Нідерландах. Було доведено, що право на евтаназію не є самостійним правом, а випливає з тлумачення Конвенції про захист прав людини і основоположних свобод.

Ключові слова: право на життя, евтаназія, асистоване самогубство, гідність людини, обов'язок захищати життя, особиста автономія.

The rapid progress of medical science and biotechnology over the past decades has posed a series of complex ethical, moral, and legal challenges for humanity. On one hand, the development of medical technologies contributes to prolonging life and improving its quality; on the other hand, it raises questions about the limits of human intervention in the natural process of death. End-of-life matters, and in particular euthanasia, raise complex legal, social, moral and ethical issues. After the Netherlands became the first country in the world to legalise euthanasia in 2002, an increasing number of states have begun to confront the complex question of how to respond to requests from individuals seeking to end their lives due to unbearable suffering. The ongoing debate surrounding euthanasia as a legal and ethical phenomenon reflects the continuous search for a balance between the state's duty to protect life and the individual's right to die with dignity.

In the academic literature, the issue of euthanasia has been examined by both foreign and domestic scholars, including J. I. Fleming, C. Ramsey, W. Gray, R. E. Walton, G. Williams, L. O. Nikitenko, N. M. Harris, J. Griffiths, H. Weyers, M. Adams, S. A. Khimchenko, and Mette L. Rurup, among others. However, despite the significant number of scholarly contributions, there remains a clear gap in the literature concerning the correlation between the legal interpretation of the right to life and the practical implementation of euthanasia mechanisms within European human rights jurisprudence. Addressing this gap is essential for developing a coherent understanding of how the protection of life, human dignity, and personal autonomy should be balanced in contemporary legal frameworks.

The relevance of the research is determined by the dynamic evolution of the European Court of Human Rights case-law, which continuously shapes the boundaries of state obligations in the field of end-of-life decisions. The growing number of legal disputes concerning euthanasia highlights the necessity of analytical clarification of the Convention's standards.

The practice of the European Court of Human Rights and doctrinal sources show that the issue of euthanasia encompasses several interrelated dimensions: the criminal-legal dimension (whether assistance in dying should be criminalised), the procedural-professional dimension (guarantees of informed and voluntary consent, protection against pressure on vulnerable individuals), and the protective-legal dimension (whether individuals have the right to access medical services for the purpose of ending their life). The absence of a unified international position, the differences in states' approaches to legalising or prohibiting euthanasia, and the diversity of national decisions underline the need for a thorough scholarly analysis of this phenomenon.

The right to life remains a fundamental norm of international law, imposing on states the obligation to ensure the protection of individuals from arbitrary deprivation of life. According to Article 6(1) of the International Covenant on Civil and Political Rights (hereinafter referred to as the **ICCPR**), "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." [1]. Similar guarantees are enshrined in Article 2 of the European Convention on Human Rights (hereinafter referred to as the **ECHR**), which also proclaims that everyone's right to life shall be protected by law, permitting deprivation of life only under strictly limited circumstances established by judicial sentence [2].

However, contemporary discussions on human dignity and personal autonomy emphasize that the protection of life cannot be reduced merely to its quantitative prolongation. In an era of growing medical sophistication and longer life expectancy, many people are concerned about being forced to stay alive in old age or serious illness, which conflict with their sense of self and personal identity. Increasingly, attention is drawn to the quality of life, the permissible level of suffering, and the individual's capacity to determine the conditions of its end. At the same time, both the ICCPR and the ECHR leave space for complex ethical and legal debates regarding the scope of this protection – particularly when it intersects with issues of personal autonomy, terminal illness, and the individual's desire to end unbearable suffering, which lies at the core of the discussion on euthanasia.

The debate on euthanasia reveals two main perspectives. On one hand, supporters argue that legal frameworks regulating euthanasia help to humanise the end of life by ensuring freedom of choice and maintaining a balance between the protection of the right to life under Article 2 and respect for personal autonomy under Article 8 of the Convention. On the other hand, opponents contend that legalising euthanasia is incompatible with the obligations arising from Article 2, as the right to life is absolute and inalienable. Such inalienability meant that not even the holder of the right to life could renounce it. From this perspective, allowing euthanasia undermines the State's duty to protect life and prevent intentional deprivation of it.

The interpretation of the right to life in international human rights law has evolved beyond the traditional understanding limited to the protection against arbitrary deprivation of life. As emphasised by the Human Rights Committee in General Comment No. 36, "The right to life is a right that should not be interpreted narrowly. It concerns the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity" [3]. This approach expands the idea of the right to life, connecting it not only with survival but also with the quality and dignity of living. At the same time, the Human Rights Committee emphasises that States parties which allow medical professionals to provide treatment or the medical means to facilitate the termination of life of afflicted adults (such as the terminally ill, who experience severe physical or mental pain and suffering and wish to die with dignity) must ensure the existence of robust legal and institutional safeguards. These safeguards should verify that medical professionals act in accordance with the patient's free, informed, explicit, and unambiguous decision, with a view to protecting patients from pressure and abuse.

The European Court of Human Rights has explained that according to the Article 2 of the Convention the right to life could not be interpreted as conferring the diametrically opposite right, namely a right to die, either through the actions of others or with State involvement. In all cases considered, the Court has emphasised the State's duty to protect life, as illustrated in Pretty v. the United Kingdom and Mortier v. Belgium [4]. At the same time, the Court has acknowledged that Article 2 does not completely forbid the limited decriminalisation of euthanasia. Still, this is only acceptable if strong and effective safeguards are in place to prevent abuse and to protect the right to life.

In the case **Mortier v. Belgium**, the European Court of Human Rights examined the euthanasia of the applicant's mother, who had suffered from severe and chronic depression for over four decades. The case raised the question of whether the Belgian State had fulfilled its positive obligations under Article 2 of the Convention to protect life. The Court emphasised that its task was not to assess the ethical or political acceptability of euthanasia as such, but to determine whether the national legal framework and its implementation provided adequate safeguards against abuse.

In this regard, the Court assessed three key elements: whether there was a sufficiently clear and foreseeable legislative framework governing euthanasia procedures; whether the domestic authorities had complied with it in the specific circumstances of the case; and whether the post-euthanasia review afforded all the safeguards required by Article 2 of the Convention. The Court found no violation of Article 2 as regards the legal framework governing the procedure preceding euthanasia and that the act in question was carried out in compliance with this procedure.

The Court noted that, in matters concerning the end of life and the delicate balance between protecting a patient's right to life and respecting their private life and personal autonomy, States should be granted a certain margin of appreciation. However, this discretion is not unlimited, and the Court retains the authority to assess whether the State has fulfilled its obligations under Article 2 [5].

At the same time, the Court's practice remains inconsistent, as there is no common European consensus regarding the permissibility of euthanasia. This is illustrated in **Karsai v. Hungary**, where the applicant, suffering from a severe and incurable disease, complained that he was unable to decide when and how to end his life and alleged discrimination compared to terminally ill patients who could request the withdrawal of life-sustaining treatment.

The Court found no violation of Articles 8 and 14 of the Convention, emphasising the significant social risks and potential for abuse associated with the legalisation of physician-assisted dying. It observed that the majority of Council of Europe member States continue to prohibit both euthanasia and assisted suicide. The State thus had wide discretion in this respect, and the Court found that the Hungarian authorities had not failed to strike a fair balance between the competing interests at stake and had not overstepped that discretion.

However, the Court also stressed that the Convention must be interpreted in light of present-day conditions. States are therefore required to continuously review their legislative approaches, taking into account the evolving values of European societies and the development of international standards of medical ethics. Moreover, the Court underlined that access to high-quality palliative care, including effective pain management, is essential to ensuring a dignified end of life. Based on expert evidence, the Court found that modern palliative methods, including palliative sedation, as recommended by the European Association for Palliative Care, could provide adequate relief for patients in similar situations.

Regarding the allegation of discrimination, the Court found that the refusal or withdrawal of life-sustaining treatment is based on the patient's right to free and informed consent rather than a right to be assisted in dying. Such decisions are widely recognised by the medical profession and reflected in the Council of Europe's Oviedo Convention. Therefore, the Court considered that the different treatment of these two categories of individuals – those refusing medical treatment and those seeking assisted dying – was objectively and reasonably justified [6].

The right of an individual to decide the manner and timing of their own death is recognized as one of the aspects of private life within the meaning of Article 8 – this was the conclusion reached by the Court in the case of Pretty v. the United Kingdom [7]. In the case of **Haas v. Switzerland**, the applicant, who suffered from severe bipolar disorder and believed that this condition deprived him of a dignified life, claimed that his right to die safely and with dignity had been violated in Switzerland due to the requirements for obtaining a lethal substance (sodium pentobarbital), which he was unable to meet. The Court found that the Swiss legal requirement of a medical prescription to access the substance pursued a legitimate aim – protecting individuals from hasty decisions and preventing abuse. It emphasised that the prescription requirement, issued only after a thorough psychiatric evaluation, serves as a safeguard ensuring that a person's decision to end their life truly reflects their free will [8].

While the European Court of Human Rights leaves States a wide margin of appreciation, the national approaches to euthanasia vary significantly, reflecting different legal traditions and ethical views.

Although euthanasia and assisted dying remain sensitive and divisive issues across the world and in most countries, active euthanasia is banned, and passive euthanasia is not allowed, a growing number of states have already adopted or are discussing laws regulating the practice. In the EU, several states are leading this legal development, each introducing its own safeguards against possible abuse. Neither EU legislation nor the European Convention on Human Rights prohibit member states from introducing rules on euthanasia.

Before examining national approaches, it is essential to distinguish between the main forms of end-of-life practices. Active euthanasia refers to deliberately ending a person's life to relieve suffering through a direct medical intervention, such as administering a lethal dose of medication. Passive euthanasia involves deliberately withholding or withdrawing life-sustaining treatment, allowing death to occur naturally. Assisted suicide means providing an individual with the means or assistance to end their own life, while the final act is carried out by the person themselves.

Euthanasia can also be classified according to the person's consent. Voluntary euthanasia occurs when an individual makes an informed and independent decision to end their life in order to avoid future suffering. Non-voluntary euthanasia, on the other hand, takes place when such a decision is made by someone else because the person concerned is unable to decide for themselves, such as infants or patients in a coma [9].

Four EU member states – Belgium, Spain, Luxembourg, and the Netherlands – have enacted legislation permitting physicians to perform euthanasia under specific conditions. In contrast, Germany, Italy, and Austria recognise only assisted suicide, where the final act is carried out by the individual [10].

Among European states, the Netherlands stands out for its comprehensive and transparent legal framework on euthanasia. The Netherlands occupies a unique position in the global debate on euthanasia, as it was the first country in the world to legalise the practice through the Termination of Life on Request and Assisted Suicide (Review procedures) Act of 2002. The Dutch model serves as a reference point for other European jurisdictions seeking to balance respect for individual autonomy with the protection of human life. Analysing the Dutch legal framework therefore provides valuable insight into how a state can regulate euthanasia while maintaining strong procedural safeguards against abuse.

Under Dutch law, euthanasia and assisted suicide are permitted only when a physician meets strict due-care criteria established by the Termination of Life on Request and Assisted Suicide Act – in force since April 2002, with the consolidated text available as of 1 October 2021. These criteria require that the physician: (1) be satisfied that the patient's request is voluntary and well considered; (2) be satisfied that the patient's suffering is unbearable with no prospect of improvement; (3) have informed the patient about their situation and prognosis; (4) together with the patient, conclude that there is no reasonable alternative; (5) consult at least one independent physician who examines the patient and provides a written opinion; and (6) exercise due medical care and attention in performing the act [11]. So euthanasia by doctors is only legal in cases of hopeless and unbearable suffering, which means that it is limited to those suffering from serious medical conditions like severe pain or exhaustion.

After the procedure, the physician must notify the municipal pathologist, who is the doctor who investigates the cause of death, and the case is reviewed by a regional euthanasia review committee, which reviews report and decides whether the euthanasia was carried out according to the law. Non-compliance with the statutory criteria can lead to criminal investigation and prosecution under the Dutch Penal Code, because euthanasia in the Netherlands technically remains a criminal offense under the Dutch Criminal Code, this law introduces amendments creating a specific ground for exemption from criminal liability. In other words, the law does not grant patients an absolute "right to die." Instead, it provides legal protection for physicians from prosecution, provided that they have strictly complied with all the established due care criteria.

This law also applies in cases where the patient's suffering predominantly originates from a medically classifiable disease, including psychiatric disorders and dementia. However, it does not cover conditions of "tiredness of life." Therefore, in addition to the standard statutory due care criteria, the Regional Euthanasia Review Committees require physicians to exercise extra caution when assessing a request for euthanasia or assisted suicide from a patient suffering from a psychiatric disorder. This additional caution primarily concerns the evaluation of the patient's decisional capacity [12]. Thus, euthanasia on the grounds of psychiatric suffering is legally permitted in the Netherlands, although it remains one of the most controversial areas of the law's application.

The Dutch model demonstrates that legalisation of euthanasia can coexist with strict procedural safeguards, continuous monitoring, and criminal accountability mechanisms.

The official review committees reported 9,068 cases of reported euthanasia in 2023, representing approximately 5.4% of all deaths in the Netherlands [13]. While the volume of cases has risen steadily over time, official monitoring bodies and several studies have not found evidence of systemic abuse.

Euthanasia remains one of the most challenging ethical and legal questions of our time. International human rights law, while affirming the absolute nature of the right to life, recognises the importance of human dignity and personal autonomy. The European Court of Human Rights continues to grant States a wide margin of appreciation, allowing them to develop national frameworks that reflect their ethical and cultural values. The Dutch model offers a valuable example of how euthanasia can be regulated through clear statutory criteria, independent review mechanisms, and criminal accountability, thus reconciling the protection of life with the individual's right to dignity and personal autonomy. However, the continuing debates in Europe show that the balance between compassion and the duty to protect life remains fragile, requiring constant legal and ethical reflection.

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