

Termination of Life on Request and Assisted Suicide (Review Procedures) Act

- This Act entered into force on April 1, 2002 -

Review procedures of termination of life on request and assisted suicide and amendment to the Penal Code (Wetboek van Strafrecht) and the Burial and Cremation Act (Wet op de lijkbezorging)

We Beatrix, by the grace of God, Queen of the Netherlands, Princess of Oranje-Nassau, etc., etc. etc.

Greetings to all who shall see or hear these presents! Be it known:

Whereas We have considered that it is desired to include a ground for exemption from criminal liability for the physician who with due observance of the requirements of due care to be laid down by law terminates a life on request or assists in a suicide of another person, and to provide a statutory notification and review procedure;

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

Chapter I. Definitions of Terms

Article 1

For the purposes of this Act:

- a. Our Ministers mean the Ministers of Justice and of Health, Welfare and Sports;
- b. assisted suicide means intentionally assisting in a suicide of another person or procuring for that other person the means referred to in Article 294 second paragraph, second sentence of the Penal code;
- c. the physician means the physician who according to the notification has terminated a life on request or assisted in a suicide;
- d. the consultant means the physician who has been consulted with respect to the intention by the physician to terminate a life on request or to assist in a suicide;
- e. the providers of care mean the providers of care referred to in Article 446 first paragraph of Book 7 of the Civil Code (Burgerlijk Wetboek);
- f. the committee means a regional review committee referred to in Article 3;
- g. the regional inspector means the regional inspector of the Health Care Inspectorate of the Public Health Supervisory Service.

Chapter II. Requirements of Due Care

Article 2

1. The requirements of due care, referred to in Article 293 second paragraph Penal Code mean that the physician:
 - a. holds the conviction that the request by the patient was voluntary and well-considered,

- b. holds the conviction that the patient's suffering was lasting and unbearable,
 - c. has informed the patient about the situation he was in and about his prospects,
 - d. and the patient hold the conviction that there was no other reasonable solution for the situation he was in,
 - e. e. has consulted at least one other, independent physician who has seen the patient and has given his written opinion on the requirements of due care, referred to in parts a - d, and
 - f. has terminated a life or assisted in a suicide with due care.
2. If the patient aged sixteen years or older is no longer capable of expressing his will, but prior to reaching this condition was deemed to have a reasonable understanding of his interests and has made a written statement containing a request for termination of life, the physician may cant' out this request. The requirements of due care, referred to in the first paragraph, apply mutatis mutandis.
 3. If the minor patient has attained an age between sixteen and eighteen years and may be deemed to have a reasonable understanding of his interests, the physician may cant' out the patient's request for termination of life or assisted suicide, after the parent or the parents exercising parental authority and/or his guardian have been involved in the decision process.
 4. If the minor patient is aged between twelve and sixteen years and may be deemed to have a reasonable understanding of his interests, the physician may cant' out the patient's request, provided always that the parent or the parents exercising parental authority and/or his guardian agree with the termination of life or the assisted suicide. The second paragraph applies mutatis mutandis.

Chapter III. The Regional Review Committees for Termination of Life on Request and Assisted Suicide.

Paragraph 1: Establishment, composition and appointment

Article 3

1. There are regional committees for the review of notifications of cases of termination of life on request and assistance in a suicide as referred to in Article 293 second paragraph or 294 second paragraph second sentence, respectively, of the Penal Code.
2. A committee is composed of an uneven number of members, including at any rate one legal specialist, also chairman, one physician and one expert on ethical or philosophical issues'. The committee also contains deputy members of each of the, categories listed in the first sentence.

Article 4

1. The chairman and the members, as well as the deputy members are appointed by Our Ministers for a period of six years. They may be re-appointed one time for another period of six years. 'philosophical issues' -- in the original text the Dutch word 'zingevingsvraagstukken' is used to describe the discussion on the prerequisites for a meaningful life.
2. A committee has a secretary and one or more deputy secretaries, all legal specialists, appointed by Our Ministers. The secretary has an advisory role in the committee meetings.
3. The secretary may solely be held accountable by the committee for his activities for the committee.

Paragraph 2: Dismissal

Article 5

Our Ministers may at any time dismiss the chairman and the members, as well as the deputy members at their own request.

Article 6

Our Ministers may dismiss the chairman and the members, as well as the deputy members for reasons of unsuitability or incompetence or for other important reasons.

Paragraph 3: Remuneration

Article 7

The chairman and the members, as well as the deputy members receive a holiday allowance as well as a reimbursement of the travel and accommodation expenses according to the existing government scheme insofar as these expenses are not otherwise reimbursed from the State Funds.

Paragraph 4: Duties and powers

Article 8

1. The committee assesses on the basis of the report referred to in Article 7 second paragraph of the Burial and Cremation Act whether the physician who has terminated a life on request or assisted in a suicide has acted in accordance with the requirements of due care, referred to in Article 2.
2. The committee may request the physician to supplement his report in writing or verbally, where this is necessary for a proper assessment of the physician's actions.
3. The committee may make enquiries at the municipal autopsist, the consultant or the providers of care involved where this is necessary for a proper assessment of the physician's actions.

Article 9

1. The committee informs the physician within six weeks of the receipt of the report referred to in Article 8 first paragraph in writing of its motivated opinion.
2. The committee informs the Board of Procurators General and the regional health care inspector of its opinion:
 - a. if the committee is of the opinion that the physician has failed to act in accordance with the requirements of due care, referred to in Article 2;
 - or
 - b. if a situation occurs as referred to in Article 12, final sentence of the Burial and Cremation Act.

The committee shall inform the physician of this.

3. The term referred to in the first paragraph may be extended one time by a maximum period of six weeks. The committee shall inform the physician of this.
4. The committee may provide a further, verbal explanation on its opinion to the physician. This verbal explanation may take place at the request of the committee or at the request of the physician.

Article 10

The committee is obliged to provide all information to the public prosecutor, at his request, which he may need:

1. for the benefit of the assessment of the physician's actions in the case referred to in Article 9 second paragraph; or
2. for the benefit of a criminal investigation.

The committee shall inform the physician of any provision of information to the public prosecutor.

Paragraph 6: Working method

Article 11

The committee shall ensure the registration of the cases of termination of life or assisted suicide reported for assessment. Further rules on this may be laid down by a ministerial regulation by Our Ministers.

Article 12

1. An opinion is adopted by a simple majority of votes.
2. An opinion may only be adopted by the committee provided all committee members have participated in the vote.

Article 13

At least twice a year, the chairmen of the regional review committees conduct consultations with one another with respect to the working method and the performance of the committees. A representative of the Board of Procurators General and a representative of the Health Care Inspectorate of the Public Health Supervisory Service are invited to attend these consultations.

Paragraph 7: Secrecy and Exemption

Article 14

The members and deputy members of the committee are under an obligation of secrecy to keep confidential any information acquired in the performance of their duties, except where any statutory regulation obliges them to divulge this information or where the necessity to divulge information ensues from their duties.

Article 15

A member of the committee that serves on the committee in the treatment of a case exempts himself and may be challenged if there are facts or circumstances that may affect the impartiality of his opinion.

Article 16

A member, a deputy member and the secretary of the committee refrain from rendering an opinion on the intention by a physician to terminate a life on request or to assist in a suicide.

Paragraph 8: Report

Article 17

1. Not later than 1 April, the committees issue a joint annual report to Our Ministers on the activities of the past calendar year. Our Ministers shall lay down a model for this by means of a ministerial regulation.
2. The report on the activities referred to in the first paragraph shall at any rate include the following:
 - a. the number of reported cases of termination of life on request and assisted suicide on which the committee has rendered an opinion;
 - b. the nature of these cases;
 - c. the opinions and the considerations involved.

Article 18

Annually, at the occasion of the submission of the budget to the States General, Our Ministers shall issue a report with respect to the performance of the committees further to the report on the activities as referred to in Article 17 first paragraph.

Article 19

1. On the recommendation of Our Ministers, rules shall be laid down by order in council regarding the committees with respect to
 - a. their number and their territorial jurisdiction;
 - b. their domicile.
2. Our Ministers may lay down further rules by or pursuant to an order in council regarding the committees with respect to
 - a. their size and composition;
 - b. their working method and reports.

Chapter IV. Amendments to other Acts

Article 20

The Penal Code shall be amended as follows:

A

Article 293 shall read:

Article 293

1. Any person who terminates another person's life at that person's express and earnest request shall be liable to a term of imprisonment not exceeding twelve years or a fifth-category fine.
2. The act referred to in the first paragraph shall not be an offence if it committed by a physician who fulfils the due care criteria set out in Article 2 of the Termination of Life on

Request and Assisted Suicide (Review Procedures) Act, and if the physician notifies the municipal pathologist of this act in accordance with the provisions of Article 7, paragraph 2 of the Burial and Cremation Act.

B

Article 294 shall read:

Article 294

1. Any person who intentionally incites another to commit suicide shall, if suicide follows, be liable to a term of imprisonment not exceeding three years or a fine of the fourth-category fine.
2. Any person who intentionally assist another to commit suicide or provides him with the means to do shall, if suicide follows, be liable to a term of imprisonment not exceeding three years or a fourth-category fine. Article 293, paragraph 2 shall apply *mutatis mutandis*.

C

In Article 295, the following is inserted after '293': first paragraph.

D

In Article 422, the following is inserted after '293': first paragraph.

Article 21

The Burial and Cremation Act shall be amended as follows:

A

Article 7 shall read:

Article 7

1. A person who has performed a postmortem shall issue a death certificate if he is convinced that death has occurred as a result of a natural cause.
2. If the death was the result of the application of termination of life on request or assisted suicide as referred to in Article 293 second paragraph or Article 294 second paragraph second sentence, respectively, of the Penal Code, the attending physician shall not issue a death certificate and shall promptly notify the municipal autopsist or one of the municipal autopsists of the cause of death by completing a form. The physician shall supplement this form with a reasoned report with respect to the due observance of the requirements of due care referred to in Article 2 of the Termination of Life on Request and Assisted Suicide (Review Procedures) act.
3. If the attending physician in other cases than referred to in the second paragraph believes that he may not issue a death certificate, he must promptly notify the municipal autopsist or one of the municipal autopsists of this by completing a form.

B

Article 9 shall read:

Article 9

1. The form and the set-up of the models of the death certificate to be issued by the attending physician and by the municipal autopsist shall be laid down by order in council.
2. The form and the set-up of the models of the notification and the report referred to in Article 7 second paragraph, of the notification referred to in Article 7 third paragraph and of the forms referred to in Article 10 first and second paragraph shall be laid down by order in council on the recommendation of Our Minister of Justice and Our Minister of Health, Welfare and Sports.

C

Article 10 shall read:

Article 10

1. If the municipal autopsist is of the opinion that he cannot issue a death certificate, he shall promptly report this to the public prosecutor by completing a form and he shall promptly notify the registrar of births, deaths and marriages.
2. In the event of a notification as referred to in Article 7 second paragraph and without prejudice to the first paragraph, the municipal autopsist shall promptly report to the regional review committee referred to in Article 3 of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act by completing a form. He shall enclose a reasoned report as referred to in Article 7 second paragraph.

D

The following sentence shall be added to Article 12, reading: If the public prosecutor, in the cases referred to in Article 7 second paragraph, is of the opinion that he cannot issue a certificate of no objection against the burial or cremation, he shall promptly inform the municipal autopsist and the regional review committee referred to in Article 3 of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act of this.

E

In Article 81, first part, '7, first paragraph' shall be replaced by '7, first and second paragraph'.

Article 22

The General Administrative Law Act (Algemene wet bestuursrecht) shall be amended as follows:

At the end of part d of Article 1:6, the full stop shall be replaced by a semicolon and the following shall be added to the fifth part, reading:

- e. decisions and actions in the implementation of the Termination of Life and Assisted Suicide (Review Procedures) Act.

Chapter V. Final Provisions

Article 23

This Act shall take effect as of a date to be determined by Royal Decree.

Article 24

This Act may be cited as: Termination of Life on Request and Assisted Suicide (Review Procedures) Act.

We hereby order and command that this Act shall be published in the Bulletin of Acts and Decrees and that all ministerial departments, authorities, bodies and officials whom it may concern shall diligently implement it.

Done

The Minister of Justice,

The Minister of Health, Welfare and Sports.

Upper House, parliamentary year 2000-2001, 26 691, no 137