

Foreigners can go to the Netherlands for assisted dying: up to the physician to decide whether to help

By Leo Enthoven

Since the Dutch euthanasia law came into force in 2002, Dutch doctors have helped over 49,000 people to die through euthanasia or physician assisted suicide (PAS). Although euthanasia and PAS remain criminal acts in the Netherlands, doctors are not prosecuted if the due care criteria of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act are met. The nationalities of the people that died through euthanasia or PAS are not registered but as far as is known all were Dutch nationals. This is remarkable. The Dutch euthanasia law does not exclude foreigners, notwithstanding claims to the contrary by the government during many years.

Doctors providing euthanasia or PAS must adhere to the due care criteria of the law. These stipulate that the doctor must:

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 his/her situation and prognosis;
4. have come to the conclusion, together with the patient, that there is no reasonable alternative to the patient's situation;
5. have consulted at least one other, independent physician, who must see the patient and give a written opinion on whether the due care criteria set out above have been fulfilled;
6. have exercised due medical care and attention in terminating the patient's life or assisting in the patient's suicide.

The law contains no further provisions:

- terminal stage of the illness: not required;
- written request: not required (oral request suffices);
- persistent request: not required;
- treatment relationship doctor-patient: not required;
- Dutch nationality or residency in the Netherlands: not required.

Nonetheless, until recently the Dutch government website stated: The Act is only applicable to people who have a medical relationship with a physician who is subject to Dutch law. This means that people who do not reside in the Netherlands cannot apply for euthanasia or physician-assisted suicide under the Act.

To put it kindly: this government information was incorrect. To put it bluntly: the government wittingly or unwittingly misinformed the public. Foreign experts were misguided. For instance, Derek Humphry, British born international godfather of the right-to-die movement, addresses the issue in his book *Final Exit*, of which almost one million copies have been sold.

He states that it is useless for foreigners to try and get euthanasia in the Netherlands because they have an absolute rule against euthanasia for foreigners. A second internationally renowned ardent advocate of self-

deliverance is Australia born doctor Philip Nitschke, director of Exit International, who currently lives on a houseboat moored in a canal in the tranquil countryside of the Netherlands. Until recently he claimed in his life-work *The Peaceful Pill e-Handbook*: the Netherlands has strict residential requirements; and: the Netherlands euthanasia law is only for the Dutch, thereby avoiding death tourism. Both men made their assertions in good faith, but erroneously, with the Dutch government as their source.

True enough, the Dutch authorities feared death tourism as soon as the country's euthanasia law came into force. Plans for a euthanasia boat to operate in international waters under Dutch flag caused quite a stir in the Hague. The government hastily issued a discouraging statement containing the clear message "that such a vessel would never be registered in the Netherlands".

Worldwide the need for help to die is enormous. In Switzerland PAS is allowed, euthanasia is not. Three Swiss organisations assist deathly ill foreigners to die. During the period 1998-2017 one of these, Dignitas, provided lethal doses of barbiturates to 2550 individuals to enable them to commit suicide. Of these 173 were Swiss nationals. The remaining 2377 persons (93%) had travelled to Zurich from 49 different countries. Among them were 391 UK citizens.

In August 2017 the Dutch authorities at long last adjusted the official website text regarding euthanasia and PAS, albeit secretively. This change remained unnoticed for some time. The English version now reads: It is up to the physician to decide whether this (i.e. euthanasia or assisted suicide) is possible in case of a request done by a person who does not reside in the Netherlands and has only recently arrived here.

See <https://www.government.nl/topics/euthanasia/is-euthanasia-allowed>

The Dutch government at long last admitted that the country's euthanasia law prescribes that the decision is solely up to the doctor, irrespective of a patient's nationality or place of residence. Yet deathly ill and seriously suffering foreigners planning to travel to the Netherlands hoping a Dutch doctor will help them to die within the scope of the Dutch euthanasia law, either through euthanasia or PAS, still have a number of major problems to solve.

Their first, and probably biggest, obstacle is to find a doctor who will be prepared to grant their request. The second is to find a suitable location. The third is to make arrangements beforehand what should be done with the mortal remains after the euthanasia or PAS has taken place. Nonetheless, it is a big step that the government acknowledges that the Dutch euthanasia law does not exclude foreigners. Undoubtedly it will only be a matter of time for a non-Dutch national to persuade a merciful doctor to put an end to his, or her, unbearable suffering.