“Death tourism” in Europe: a potential problem in Croatia

Abstract

“Death tourism” is one of the newest types of tourism worldwide, but especially in Europe. In this article an author deals with this issue regarding one country where it could raise many problems. This is Croatia, where legislator brought a very specific legislative solution which will be elaborated here.

Keywords: death tourism, assisted suicide, illness, Croatia

Introduction

Living and dying in accordance with the person’s own beliefs and desires are considered to be one of the greatest human freedoms, and one of the most common wishes of the patients who are in the terminal stage of the disease because it enables to end their lives with a certain amount of dignity. 1 This raised a question of one of the most important problems in the past and present times. It is an issue of decriminalization of euthanasia and physician-assisted suicide. This also actualized the question of decriminalization of assisted suicide, but we have to also emphasize its ethical issue. 2 Student of law and medicine worldwide have its own view about these issues. 3 An unavoidable basic question should be raised at the beginning. Should anyone be allowed to decide to end the life of a patient in the terminal stage of the disease? This is the main dilemma of patients, their families, physicians, and society as a whole. The issue becomes even more important if we bear in mind the fact that modern technology allows a prolongation of life in terminally ill patients, 4 which can mainly be seen as the positive aspect, but, in some cases, may result in extending the unbearable suffering of patients. 5 The reasons that lead to the assisted suicide or suicide are very different: illness (from the cancer to the psychiatric illnesses, even diabetes), sadness, problems in the relationships. On the one hand, such as the issues of abortions, the death penalty, and other issues dealing with the beginning and end of human life, euthanasia has always provoked strong reactions, both of its supporters and opponents. On the other hand, it should be emphasized that the debate should not be limited only to the question of euthanasia, but other processes that lead to the same outcome, such as medical assistance in committing suicide, need to be discussed as well. Suicide is certainly a very widespread phenomenon in Europe. 6

Although euthanasia is largely taboo in Europe, in some countries it has been practiced for many years. This issue is, however, particularly actualized with the emergence of the so-called ‘death tourism’ in countries that have passed laws legalizing the mercy killing, because the application of this procedure has contributed that these countries become a tourist destination for suicide, which caused negative publicity for them. 7 This primarily refers to Switzerland, which is faced with the influx of a large number of patients from the UK arriving in Zurich ‘suicide clinic’ and, therefore, the term “death tourism” has become very popular with the western media, while other countries that have not legalized mercy killing nor assisted suicide have no problem with inflow of foreign nationals with suicidal intentions.

The basic terms related to this issue

Before moving on to specific questions which will be addressed in this paper, it is necessary to define key terms used in these procedures. Primarily, we should start from the fact that “death tourism” is a specific type of medical tourism, where under the latter it is considered a medical treatment or surgery happening according to a plan. Not only should that it be carried out in a place that does not represent the patient’s residence. 8 “Medical tourism” has emerged, initially, as a result of vacations spent in spas and health resorts throughout the world, and one of the most common wishes of the patients who are in the terminal stage of the disease because it enables to end their lives with a certain amount of dignity. 1 This raised a question of one of the most important problems in the past and present times. It is an issue of decriminalization of euthanasia and physician-assisted suicide. This also actualized the question of decriminalization of assisted suicide, but we have to also emphasize its ethical issue. 2 Student of law and medicine worldwide have its own view about these issues. 3 An unavoidable basic question should be raised at the beginning. Should anyone be allowed to decide to end the life of a patient in the terminal stage of the disease? This is the main dilemma of patients, their families, physicians, and society as a whole. The issue becomes even more important if we bear in mind the fact that modern technology allows a prolongation of life in terminally ill patients, 4 which can mainly be seen as the positive aspect, but, in some cases, may result in extending the unbearable suffering of patients. 5 The reasons that lead to the assisted suicide or suicide are very different: illness (from the cancer to the psychiatric illnesses, even diabetes), sadness, problems in the relationships. On the one hand, such as the issues of abortions, the death penalty, and other issues dealing with the beginning and end of human life, euthanasia has always provoked strong reactions, both of its supporters and opponents. On the other hand, it should be emphasized that the debate should not be limited only to the question of euthanasia, but other processes that lead to the same outcome, such as medical assistance in committing suicide, need to be discussed as well. Suicide is certainly a very widespread phenomenon in Europe. 6

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European continent. With the advancement of communication and transport, this term has expanded and began to be used to describe the journey of the patients from the less developed countries to industrially advanced countries of Europe and the United States, where they could receive better medical care than in their countries of origin. If it explains simply: bypassing most of the available facilities in own country, it forces residents of a country to seek medical treatment in another country. The next crucial issue is to raise that why do people tend to do so is to be considered. Out of many reasons the key factor that to be addressed in this paper is subjecting to medical procedures and services that are not legal in the country of residence of the patient. Among others, these are euthanasia and assisted suicide, which caused the emergence of “death tourism”. In other words, this term (Eng. death tourism, Ger. Sterbetourismus) means journey of a person from the country where euthanasia and/or assistance in suicide is prohibited to the country in which one or both of the procedures are, under certain conditions, permitted by the law, which allows administration of these medical treatments to him.

To live with dignity - to die with dignity is the slogan of the famous Swiss organization Dignitas, whose goal is to help patients to commit suicide. The brochure of this organization highlights that a help can be obtained by any person who suffers from an incurable illness or permanent disability for life and wants to voluntarily end their life. An additional condition for providing the service is that person must be a member of this organization. Since its founding Dignitas has participated in about 900 cases of assisted suicide. Given that a large number of Britons requested services from Dignitas, its work has attracted great attention in the UK (where the assisted suicide is prohibited). The data show that by the end of 2008, more than 100 Britons traveled to Switzerland in order to be provided with service of assistance in committing suicide, but now the number is far higher. However, it should be noted that, generally speaking, patients do not use services of the organization very often. According to some data, about 70% of people who came for consultation never decided to use its services, and of those who did only 13.3% received a prescription for medication to get their desired effect.

The potential problem in Croatia

According to available data, the average suicide rate in Croatia is 34.6 for men and 11.7 for women per 100,000 inhabitants, which puts it roughly in the middle of the list. Suicide is the third leading cause of death among young people aged 15 to 24, a sixth in children 5 to 14 years, with the most common methods of execution as hanging and firearms, and the causes are mental illnesses, the economic crisis, job loss and lack of support from the close ones etc. It is necessary to emphasize that suicides among war veterans are as twice as often as the others. Assisted suicide in Croatia is performed by drug administration to a patient by a physician, for the purpose of suicide, whereby such process does not pertain to the child and at the same time is considered to be unacceptable, because the physician must not expedite suicide by using drugs.

In the future, this could be a problem. To explain this, we have to in brief explain a Swiss solution. Swiss legislator has only legalized assisted suicide (which has been challenged for years by the Swiss Academy of Medical Sciences, but which suddenly in 2004 took the view that it is a matter of individual conscience of physicians), but not the mercy killing. Swiss Criminal Code represents the most liberal law on assisted suicide in the world, with the practice of over 60 years, and because of certain characteristics it makes Switzerland one of the most popular destinations for “death tourism” today.

First of all, on the one hand, euthanasia is stipulated as a privileged murder, and anyone who for reasons of humanity, especially compassion, kills another person on his serious and explicit request will be punished by imprisonment from three days to three years (Article 114 of Criminal Code of Switzerland). On the other hand, assisted suicide in Swiss criminal law is defined as a criminal offense, whose act commits any person who for selfish reasons encourages another person or helps him commit suicide, which is committed or attempted. This offense is punishable by imprisonment up to five years or a fine (Article 115 of Criminal Code of Switzerland). However, if assistance in suicide is provided for altruistic reasons, such action will not be considered a crime.

To provide someone with assistance in suicide with impunity, whereby the aider does not have to be a physician, it is necessary to fulfill several conditions. Primarily, it is necessary that the person is diagnosed with an incurable disease that will certainly lead to his death for some time, then, that all the alternative measures had been applied and that the person is capable of making such a decision, freely and without any external pressure. Whether these requirements are met should be determined by the third person, who by profession does not have to be a doctor. Then, the legislator does not require that the patient is terminal ill nor to suffer from severe disability, which why this legal solution is most exposed to criticism. Finally, but most importantly for our considerations, is that there is nowhere prescribed condition relating to the nationality of the person seeking help. The absence of request for citizenship presented this country as a destination for “death tourism”. The same problem could appear in Croatia, due to the similar legal solution, which will be discussed below.
In the first place, Croatia banned euthanasia and physician assisted suicide, which are prescribed as criminal offences in the Criminal Code. However, Croatian Criminal Code has undergone several changes in recent years. One of the fields where this legal text has been changed is the area of crimes against life and body. This chapter consists the following offences: murder, aggravated murder, manslaughter, negligent homicide, participation in suicide, unlawful termination of pregnancy, female genital mutilation, bodily injury, serious bodily injury, particularly serious bodily injury, serious bodily injury resulting in death, serious bodily injury caused by negligence, participation in affray, failure to render assistance and abandonment of a helpless person. Croatian legislator, in the context of the criminal act of manslaughter, between the others, regulates euthanasia (Art. 112 of Croatian Criminal Code).

Assisted suicide is prohibited under the participation in suicide. As stated in the commentary of the law, starting point was the fact that every incitement and assistance in suicide is unacceptable, even in the case if it is led by altruistic motives, so any incitement to suicide, which is committed or attempted, the punishment of since timely intervention of physician does not extinguate the abettor or aider. That is, a criminal act consists of two articles:

Participating in Suicide (Article 114)

1. Whoever induces or for base motives assists another in committing suicide which is accomplished or attempted, shall be punished by imprisonment to three years.

2. Whoever commits the act referred to in Paragraph 1 of this Article against a child older than 14 years or a person whose capacity to realize significance of his actions was substantially diminished, shall be punished by imprisonment from one to eight years.

Croatian authors argue, reasonably and correctly, that there are four ways to regulate assisted suicide:23 Firstly, attempt of suicide can be qualified as a crime, while the other way is reflected in prescribing the criminal offense of assisting in suicide. As we can notice, the second way is a characteristic of the countries of Southeast Europe. Thirdly, the legislator may decide to incriminate neither suicide nor assisting in the execution of suicide. Though this practice is already well developed in Western Europe, it will not be easily accepted in Eastern Europe, primarily because the general public is still not aware of the existence of such a solution. In the future, it can cause problems and morally difficult situations. Assisting in death is everything but not easy for every person, especially for the persons close to the patient (in the Swiss practice, victims are mainly patients, suffering from the various diseases). The court will have very hard task in determining whose motives are base, which could lead to the conviction or to the freedom.

Conclusion

The legal solution similar to Switzerland, though not identical, can provide an opportunity and a risk for development of death tourism, which is already known in comparative law. The deficiencies in law may create a negative phenomenon of death tourism unless there is well developed in Western Europe, it will not be easily accepted in Central Europe and Southeast Europe. This is significantly contributed by the fact that the general public is still not aware of the existence of such a solution.

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Conflicts of interest

The author declares there are no conflicts of interest.

