全球瞭望

比利時案例認定為精神疾病患者安樂死並不違反歐洲人權公約*

Euthanasia of a Person with a Psychiatric Disorder Does Not Violate the European Convention on Human Rights (Mortier v. Belgium [no. 78017/17])

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摘 要

20多年以來，比利時及荷蘭對於末期疾病或者非末期疾病，包含精神疾病患者，在處於難以忍受的痛苦的

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情況下，得以進行安樂死，儘管多年來安樂死案例不斷增加，但是精神疾病患者進行安樂死的案例仍維持穩定的比例（大約1%至2%之間），就此類案例，比利時以及荷蘭的安樂死法規中均有相類似的照護標準進行規範，包含：是否出於成年具有完全行為能力之人的深思熟慮、反覆以及自願的請求、治療狀況並未見好轉、存在無法緩解且持續難以忍受的痛苦、諮詢兩位獨立醫生，包含精神科醫生、事後評估以及控制[1]。

For more than 20 years, euthanasia in Belgium and The Netherlands is allowed for unbearable suffering caused by terminal or non-terminal illnesses, including psychiatric disorders. Although euthanasia numbers have

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1 Marc De Hert, Sien Loos, Sigrid SterckxSigrid Sterckx, Erik Thys, & Kristof Van Assche, *Improving Control over Euthanasia of Persons with Psychiatric Illness: Lessons from the First Belgian Criminal Court Case Concerning Euthanasia*, 13(933748) FRONT PSYCHIATRY (2022). doi:10.3389/fpsyt.2022.933748. Annual reports Regionale Toetsingscommissie (RTE), https://www.euthanasiecommissie.nl/de-toetsingscommissies/jaarverslagen(last visited Oct. 18, 2022). Annual reports Federal Control and Evaluation Commission for Euthanasia (FCECE), https://overlegorganen.gezondheid.belgie.be/nl/advies-en-overlegorgaan/commissies/federale-controle-en-evaluatiecommissie-euthanasie(last visited Oct. 18, 2022).

been increasing over the years, the percentage of cases involving people with a primary psychiatric diagnosis has remained stable (between 1 and 2%). For these cases, the Belgian and Dutch Euthanasia Laws operate similar due care criteria: a well-considered, repeated, and voluntary request from a legally competent adult; a medical condition without prospect of improvement; constant and unbearable suffering that cannot be alleviated; consultation of two independent physicians, including a psychiatrist; and a posteriori evaluation and control.

本文探討的案例是一名64歲的女性患者，該名患者自青少年時期起長年患有慢性憂鬱症，同時經診斷尚有人格障礙。多年來該名病患透過精神科醫生進行門診治療，經常是多種治療方式但均失敗，然而該精神科醫生拒絕參與該名患者的安樂死申請程序。於2011年9月，該名患者向D教授請求進行安樂死。D教授以及另外兩名獨立的精神科醫生均確定該名患者具備行為能力，且因人格障礙和慢性難治型憂鬱症造成患者經歷無法忍受的痛苦，而此痛苦無法得到緩解，在評估期間，該名患者拒絕與其子女聯繫。於2012年4月，D教授對該名患者進行安樂死，D教授在當時（目前仍是）是聯邦監督和評估委員會（the Federal Control and Evaluation Commission on Euthanasia, FCECE）的共同主席。2012年6月，經過該委員會檢視安樂死申請文件後，認定該安樂死案例符合照護標準[2]。

該名患者的兒子在得知其母親已經經由安樂死結束生命後，曾多次要求要索取母親病歷複本以及相關申請文件，但並

2 Mortier v. Belgium (no. 78017/17), Oct. 2022, https://hudoc.echr.coe.int/eng?i=002-13802.