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Commission on Assisted Dying – visit of 5 May 2011
Questions by the Commissioners according to the section
„International Visits“
A few notes for the Commissioners

1) How many requests for assisted dying are made in a year?

There are two types/groups of requests reaching DIGNITAS, which need to be distinguished:

a) unspecified requests for assisted dying

and

b) formal requests for the preparation of an accompanied (assisted) suicide, hereafter abbreviated by the letters “AS”.

Regarding a):

DIGNITAS is an association in line with Swiss Civil Code article 60; a help-to-live, right-to-die association and a not-for-profit organisation. Its’ services are basically available to members of the association only. However, every day, DIGNITAS is contacted by individuals who are not (yet) member. The majority of these individuals contact the association because they seek help to end their own life or because a next-of-kin or a friend has asked them to contact. Some of these requests reach DIGNITAS in writing, including description of the personal and medical situation, some already include medical reports. In some cases, individuals simply turn up at our door and request to be helped to die: these unfortunate individuals actually believed the nonsense spread in the media such as that DIGNITAS would be a clinic (in the sense of a hospital or hospice, where doctors and nurses treat patients) or that it would be possible to travel to DIGNITAS one day and be “euthanized” the other. Of course, they have to be sent back home.

All these individuals inquiring and seeking help from DIGNITAS receive information and advice as far as possible, in the sense of a first-contact-counselling; notably free of any charge. Generally, everyone inquiring about DIGNITAS is first sent our information-brochure – by airmail or e-mail – and asked to read it carefully.

According to internal research, over one third of DIGNITAS' efforts go towards counselling of such non-members. Being that these requests are generally not in line with the prerequisites outlined in our brochure,¹ these requests are hereafter called “unspecified requests”. The number of these requests is unknown: DIGNITAS does not have the resources to do extensive statistical work and register every unspecified request that is being made.

Regarding b):

Only written requests which are in line with the prerequisites outlined in our brochure on page 5² can be processed and placed with a Swiss medical doctor cooperating with (yet independent of) DIGNITAS. Of course, DIGNITAS assesses all requests beforehand and serves as a “filter” in order to advice members of additional paperwork required before a request may be placed with a Swiss medical doctor. The number of formal requests (in casu for the year 2010) is as follows:

- Accompanied suicides = Requests that were given a “provisional green light” of which the member actually made use: 97³
- Further requests placed with medical doctors: 63 (of which all but 9 received a “provisional green light”)
- Further requests which could not be placed with a medical doctor because one or several parts of the request (i.e. an up-to-date medical report) was not available: 76

Total number of requests by DIGNITAS-members: 236

2) How are these requests made?

Unspecified requests (see above, question 1, a) are made orally and in writing, sometimes even personally. Requests in line with the prerequisites of DIGNITAS (formal requests, see above, question 1, b) must be in writing.

¹ Information-brochure of DIGNITAS, page 5, available online:

<http://www.DIGNITAS.ch/images/stories/pdf/informations-broschuere-DIGNITAS-e.pdf>

² Information-brochure of DIGNITAS, page 5, available online:

<http://www.DIGNITAS.ch/images/stories/pdf/informations-broschuere-DIGNITAS-e.pdf>

³ Statistic „Accompaniments to suicide per year and residence“, available online:

<http://www.DIGNITAS.ch/images/stories/pdf/statistik-ftb-jahr-wohnsitz-1998-2010.pdf>

3) In what circumstances do people make requests of assisted dying?

As mentioned before, there is no statistic on *every* request which reaches DIGNITAS. However, based on years of experience, the large majority of requests – approximately 90 % – are being made due to physical and/or psychic (medically diagnosed) suffering of the individual. The rest, some 10 %, are requests by (medically) healthy individuals: some would like to end their life due to difficult circumstances (debts, crisis after split-up from partner, conflict with family members, etc.); others would like to end their life for philosophical reasons (i.e. individuals who see their life as “fulfilled” - usually elderly, healthy people - or individuals “who do have all amenities of life yet do not see a reason to be part of this world anymore”).

4) What safeguards are in place to ensure that people are making a voluntary and considered choice and are not pressured into an assisted death ?

As already indicated above, DIGNITAS follows a step-by-step procedure. The proceedings from a first contact until an actual accompaniment usually take at least some 3 months. The basis is always a direct contact between the person requesting an AS and DIGNITAS. At all times, the initiative and self-determination of the individual is the “graduator”: the individual needs to take initiative again and again in order to proceed towards an AS. Any suspicion arising that there could be influence on the individual by third parties will automatically lead to an interruption of the proceedings and a discussing of the situation. There are several safeguards involved in the proceedings, making it possible to verify that an individual’s decision to follow-up on the proceedings towards an AS is indeed that individual’s decision:

- a) the individual will be in contact with several different members of the staff working in the office of DIGNITAS
- b) members are being visited at home for a preliminary in-depth discussion. For Swiss members, this is the rule. Other members living further away are visited as far as it is possible, in certain cases by colleagues of other associations; in the U.K. for example by our colleagues of FATE Friends At The End or S.O.A.R.S.
- c) one or several medical doctors (who are independent of DIGNITAS) are assessing the request and at least two personal consultations take place between the member and the doctor granting the “green light” for an AS. The medical doctor assessing the request is free to ask the DIGNITAS-member to come to his office for an additional preliminary consultation, that is, before even giving the so-called “provisional green light”
- d) there are at least two DIGNITAS-companions present at the AS who are trained to assess the members decision and free will and to look for possible influence by third parties once again.

e) relatives and friends of the individual are motivated and welcome to participate in the preparation proceedings and to be present during the AS: this also allows to monitor the interaction between the individual and his or her loved ones.

Everyone involved in counselling and discussing with the member, assessing the request, etc. is trained to monitor the proceedings for possible inconsistencies / hints such as inexplicit wording (in writing and orally), reluctance to comply with the prerequisites, etc.

5) What process is followed and how is this process regulated?

Please refer to the information-brochure of DIGNITAS as well as the booklet/brochure “How DIGNITAS works”

6) Which professionals are involved in providing assistance?

Medical doctors, medically trained professionals (nurses), social workers, lawyers and specially trained counsellors, companions and befrienders.

7) How well is the legal procedural framework currently functioning?

a) Procedural framework:

This is working very well, yet, the “red tape” and time-frame involved sometimes leads to ruling out of individuals who would actually “qualify” for an AS. Naturally, most individuals will consider the option of an AS only once they have a diagnosis of a debilitating illness, followed-up on treatment(s) and reached a point at which medical science does not offer them sufficient hope for improvement anymore – even though in their personal opinion they might have, for a long time earlier on, acknowledged the right to self-determination (also) at the end of life. Especially individuals suffering from fast-advancing terminal cancer often find themselves in the situation that “time runs out for them” whilst going through the proceedings at DIGNITAS. This is one of the reasons why we always advice for making use of all options, that is, also following-up on palliative care.⁴

b) Legal framework:

The Swiss Criminal Code (“Strafgesetzbuch StGB”), the Federal Act on pharmaceuticals and medicinal products (“Heilmittelgesetz HMG”) and the Federal Act on narcotics and psychotropic substances (“Betäubungsmittelgesetz BetmG”) – the latter two also referring to the “approved rules of medical science” which states that medical doctors are obliged to use, dispense and prescribe barbiturates only as it is necessary in the frame of the approved rules

⁴ See also in our Submission to the Commission on Assisted Dying, page 18 (question 12)

of medical science – together provide the legal Swiss frame for assisted suicide made possible by associations like DIGNITAS in cooperation with Swiss medical doctors.

Furthermore, on 3 November 2006 the Swiss Federal Court rendered a decision⁵ stating that the right to decide on the method and date of one's own death is a part of the Right of Self-Determination, guaranteed by article 8 paragraph 1 of the European Convention on Human Rights, a right equally applying to mentally ill people providing that they are able to exercise their free will and to act in consequence of this will. The European Court of Human Rights acknowledged this approach in its judgment of 20 January 2011 by stating “in the light of this jurisdiction, the Court finds that the right of an individual to decide how and when to end his life, provided that said individual was in a position to make up his own mind in that respect and to take the appropriate action, was one aspect of the right to respect for private life under Article 8 of the Convention”⁶.

Whilst this legal framework would suffice and provide a liberal base for assisted suicide, unfortunately it also leaves room for conservative, discriminating and xenophobic members of the Swiss authorities to make it practically impossible to have access to the legal option of a self-determined end in life by putting pressure on Swiss medical doctors not to cooperate with associations like DIGNITAS: the above mentioned “HMG” and “BetmG” refer to the “approved rules of medical science”, yet, Swiss medical science has not developed rules on dispensing the lethal drug Natrium-Pentobarbital (the means of choice for assisted suicides) and, in fact, medical science explicitly refused to establish such rules because “medical doctors . . . are not experts on voluntary death”, as it says in an official statement by the Swiss Academy of Medical Science.⁷

The bottom line is that it is not possible to legally – that is via medical prescription – access the means of accompanied suicide as long as medical doctors obey the rules of the medical law. In this respect, it must be assumed that there is up until now an unsolved conflict in Swiss law: on the one hand, the above mentioned decision BGE 133 I 58 of the Swiss Federal Court as well as the judgment of the European Court of Human Rights both have confirmed the right of an individual to decide for himself or herself the time and manner of ending his or her life as a human right – on the other hand however, the medical law prevents medical doctors dispensing the means for suicide as long as – in current practice as observed in Switzerland so far – there are not very particular medical reasons which can be used to justify such a prescription. Until now, this leads to a very difficult question of differentiation: when is a medical doctor allowed to prescribe such a means, without violating his/her professional duties, and in which case is he/she just not allowed to do so as otherwise he/she would violate his/her professional duties? Such a contradictory legal situation, especially in regard to the exercise of rights guaranteed by the European

⁵ BGE 133 I 58

⁶ Application no. 31322/07, paragraph 51

⁷ published in the Swiss Medical Journal (“Schweizerische Ärztezeitung”) 2007;88: 24, pages 1051-1052.

Convention on Human Rights, severely impairs the ability to make use of this right.

Only if a positive law regulating the whole issue would be set up, the pending legal conflict and arbitrary acts by the Swiss authorities could be eliminated.

8) Are there any significant problems with how assisted dying is practiced or monitored?

The central problem is certainly the aspect touched upon in section 7 b above.

9) do you have any thought on how your system could be improved upon?

The legal conflict mentioned in section 7 b above, needs to be resolved.

10) What are the main debates in Switzerland regarding the future of assisted dying?

Generally, (not only in Switzerland) the results of public opinion polls show a large majority – usually between 75 and 85 percent of the people asked – who support the right of an individual to decide for himself or herself the time and manner in which his or her life should end.⁸ This in contrast to the parliaments of these countries where a majority in favour of right-to-die-issues is very rarely reached.

A central issue is the question whether access to such a right should be possible for residents (or even citizens) only. To our knowledge, Switzerland is the only country in the world with a liberal approach towards self-determination at the end of life *and at the same time* allowing for non-citizens and non-residents to have access to such an option. DIGNITAS clearly takes a liberal stand towards this question by not discriminating individuals on the base of citizenship or place of residency. This, however, is frowned upon by some conservatives who have not yet grasped that there is no difference between an individual suffering from terminal cancer in the Swiss city of Kreuzlingen (on the shores of the Lake of Constance) and an individual suffering from the very same illness in the German city of Konstanz, just a few metres on the other side of the border!

The main debate in fact is a struggle between the defendants of freedom of choice at the end of life and conservative forces trying to limit some or all freedom in these issues.

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Overall, please also refer to the Submission by DIGNITAS, dated 2 May 2011, to the Commission on Assisted Dying and further publications in German and English available on the website of DIGNITAS.

⁸ BBVA Foundation Study European Mindset and many more