



The Practice of Euthanasia From The Perspective of International Human Rights

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Abstract. Euthanasia is death that occurs with the help of a doctor or without the help of a doctor at the request of the patient or the patient's family. Euthanasia has been debated from an international human rights perspective. One of the euthanasia cases that has been decided by the *European Court of Human Rights* (ECtHR) is the case of euthanasia due to mental disorders in the mother of Tom Mortier as the applicant from Belgium. The purpose of this research is to understand the category of euthanasia as an international offence and the practice of euthanasia in Belgium from the perspective of international human rights. This type of research is normative legal research with legal material collection techniques carried out by literature study and analysed using prescriptive techniques. The results of this research show that euthanasia based on international human rights instruments if it is about the right to life and the right to health services can be categorised as a violation while if it is about the right to self-determination, then euthanasia is not a category of violation. Euthanasia due to mental disorder that has been submitted to the ECtHR if adjusted to the ECHR as an international treaty to protect human rights in the European region is not a violation. However, it is said to be an offence in the post-euthanasia procedure due to the lack of independence of the Commission and the length of the investigation.

Keywords: Euthanasia; Human Rights; International Human Rights Instruments; European Court of Human Rights.

1 Introduction

Modern medical equipment can reduce pain and prolong the patient's life for a period of time. With respirator techniques, it can slow down the patient's death so that the problem of death seems to be the result of biomedical technological considerations. Meanwhile, the concept of death is not only a biomedical medical phenomenon but also a phenomenon of social culture, religion, and obligations accompanied by various ritual events, all of which are deeply embedded in every society (Henny Saida Flora 2022).

Based on how it occurs, science divides death into three categories (Louisa Yesami 2021):

1. Orthothanasia is death that occurs due to natural processes.
2. Dysthanasia is death that occurs due to something unnatural.

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3. Euthanasia is death that occurs with or without the help of a doctor.

Among the three types of death above, euthanasia is a serious problem that causes dilemmas among doctors, legal practitioners, and religious leaders (Warjiyati 2020). The term euthanasia itself comes from the Greek word *Euthanatos*. The word 'Eu' which means good, and the word 'thanatos' which means death, so that when combined means death without feeling suffering (Purnamiyanti, N. P. E. B., & Wirasila 2020). Euthanasia can also be called mercy killing, or good death, or easy death. However, the current definition of euthanasia is broader, which includes the painless taking of life to end excruciating suffering, either at the request of the patient or his family (Nurliza M 2023).

Euthanasia is usually an option for patients with terminal conditions. Patients with terminal conditions are those who have a disease at an advanced stage that can no longer be treated and is progressive. When a patient is in a terminal condition, hope, treatment, and efforts to prolong life are reduced. This condition causes medical personnel and families to feel depressed, afraid, and thus increases anxiety (Jati, Chotimah, and Suryani 2020). From the patient's perspective, the condition causes despair and believes that they will eventually die. In some cases, patients also remember the difficulties experienced by their family, which is a burden for the patient himself, making the patient even more desperate and assuming that it has caused a lot of problems for his family. From the family side, the patient cannot bear to see the condition of his family members feeling prolonged pain and only being able to survive with medical devices. In addition, it is not uncommon for families of patients with terminal conditions to be unable to pay medical fees. In these conditions, patients or their families apply for euthanasia.

From the perspective of international human rights, The debate on euthanasia has been contentious. From the perspective of human rights, euthanasia is connected to the right to life. According to Article 3 of the Universal Declaration of Human Rights "Everyone has the right to life, liberty, and security of person.". Article 3 of the Universal Declaration of Human Rights, establishes regulations governing the right to life. One of every person's fundamental rights is the right to life. Since everyone has the right to life recognized in Article 3, governments and societies are required to respect and safeguard the lives of all people. It also emphasizes how crucial it is to abstain from acts like murder, genocide, and the death sentence that endanger or take a person's life. The patient's right to life is the right that must be upheld in this situation. Euthanasia will end the patient's life, therefore it is indirectly considered as murder when performed.

There are also proponents of euthanasia who see it as a person's right to end their life as they see fit. In situations where a patient's suffering is intolerable or their illness is incurable, they have the right to choose to end their own life, which is linked to the right to self-determination. Patients' human rights are violated when the government or other institutions interfere with their ability to make final decisions about their own lives.

Many cases of ending a person's life by euthanasia have been filed before the European Court of Human Rights (ECtHR), in keeping with the numerous parliamentary activities surrounding euthanasia that have taken place worldwide over

the past 20 years (Kovačević 2023). The Belgian Euthanasia Act and fundamental rights were the subject of a ruling by the European Court of Human Rights on October 4, 2022. Two separate cases of euthanasia performed to end mental suffering caused by psychiatric conditions were the subject of the judgment. The judgment has significant implications for countries that have enacted or are debating euthanasia laws, especially with regard to mental suffering caused by psychiatric illness. (Hert, Loos, and Assche 2023).

Tom Mortier, the son of the widow who was euthanized, was the applicant in this case. For more than 40 years, Tom Mortier's mother had suffered from persistent depression. She was put to sleep in February 2012 after undergoing every step of the prior protocol outlined by the Belgian Euthanasia Act and receiving treatment from several doctors. Tom Mortier filed a complaint with the ECtHR twice. Firstly, a violation of the European Convention on Human Rights Articles 2 (right to life) and 8 (right to respect for private and family life).

Therefore, in relation to the problems described above, the author would like to study in a paper entitled 'The Practice of Euthanasia Viewed from the Perspective of International Human Rights'. The purpose of this research is to understand euthanasia can be categorised as a violation from the perspective of international human rights instruments and the practice of euthanasia in Belgium from the perspective of international human rights.

2 Method

The type of research that will be used in this paper is normative legal research. The research approach methods that will be used in this paper are Statute Approach, Conceptual Approach, and Case Approach. The sources of legal materials to be used are primary legal materials, secondary legal materials and tertiary legal materials.

The technique of collecting legal materials in this paper is a literature study by collecting legal materials by recording and citing legal materials and analyzing legal materials in this paper. This paper uses prescriptive legal material analysis by providing arguments or opinions regarding right or wrong according to the law against the facts of the research results.

3 Discussion

3.1 Euthanasia from the Perspective of International Human Rights

Euthanasia according to the Euthanasia Study Group of the KNMG Holland (Dutch Medical Association) states that "Euthanasia is the act of deliberately not doing something to prolong the life of a patient or deliberately doing something to shorten or end the life of a patient, and all of this is done specifically for the benefit of the patient himself". (Ramadhan 2022).

Euthanasia is usually performed on patients who have terminal conditions or patients whose conditions are difficult or incurable. Euthanasia is an option for both the patient

himself and the family of the patient who has a terminal condition. Euthanasia that is usually requested by the patient themselves is called voluntary euthanasia. Meanwhile, euthanasia requested by the victim's family is usually called Non-Voluntary Euthanasia or presumed euthanasia.

Euthanasia can only be performed by doctors or medical personnel. In the implementation of euthanasia, doctors will usually do it in two ways. First, doctors or medical personnel do not provide medical treatment that is able to maintain or extend the life of the patient or commonly referred to as Passive Euthanasia. Secondly, doctors or medical personnel deliberately shorten or end the patient's life by giving injections of lethal substances or cyanide tablets so as to cause death to the patient. This euthanasia is commonly referred to as active euthanasia.

Human rights are rights inherent in human beings that are natural and fundamental in nature that must be respected, maintained, and protected (Kurniaty 2021). The purpose of human rights is to defend human beings, their inherent value, and the moral foundation for their interactions with others. Regardless of differences in race, ethnicity, color, gender, language, nation, religion, politics, or other social status, every human being has inherent rights from birth. These rights, commonly referred to as natural rights, are granted to human beings in accordance with their inherent character. John Locke's proposal of these fundamental rights includes the rights to life, liberty, and property. (Sujatmoko 2016).

There are advantages and disadvantages to the use of euthanasia in terms of human rights. Proponents of euthanasia would argue that euthanasia is an exercise of the right to self-determination. The choice to die is part of the right to self-determination. Proponents of euthanasia base their argument on the idea that every patient has the right to self-determination, freedom, and autonomy. (Nour 2020). This decision is no exception to ending their lives if they are experiencing unavoidable suffering.

The argument put forward by people against euthanasia is that euthanasia violates the right to life and the right to health care. All other human rights depend on the right to life, which is the most fundamental human right. If there is no right to life, then there will be no other rights. Euthanasia is considered a violation of the right to life and the right to health care. The main purpose of the right to healthcare is to provide medical care based on the doctor-patient relationship for those in need of healing, as well as to prevent and treat disease. On the other hand, proponents of euthanasia link it to the right to self-determination or the right to life.

To protect the right to life, the right to health care, and the right to self-determination against the practice of euthanasia, various international human rights instruments that have regulated the related rights can be used. These human rights instruments include:

1. Universal Declaration of Human Rights (UDHR)

UDHR is an international document that contains human rights that are fought for based on an international agreement. The UDHR is a resolution and not a treaty, therefore it is not legally binding (Adamu 2023). The UDHR consists of 30 Articles that contain fundamental and universal human rights. The UDHR has had a wide and strong influence in advancing human rights law both domestically and internationally. By influencing and reflecting various aspects of human rights protection

through national constitutions, constitutional jurisprudence and international law, the UDHR serves as an important moral benchmark for the framers of national constitutions and constitutional jurisprudence. (Vodiannikov 2020).

The UDHR as the beginning of international human rights instruments has listed the rights that can be associated with the protection of euthanasia practices, including:

- a. Article 3 which reads 'Everyone has the right to life, liberty and the security of person'.
- b. Article 25 paragraph 1 which reads 'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control'.

These articles provide protection against the practice of euthanasia which protects the right to life and the right to obtain health services for patients. Based on articles 3 and 25 paragraph 1 of the UDHR, euthanasia can be categorised as a violation.

2. International Covenant on Civil and Political Rights (ICCPR)

The ICCPR was completed in 1966, adopted on 16 December 1975 and came into force on 23 March 1976. The ICCPR is one of the most important human rights instruments because it is an extension of the UDHR which regulates in more detail the civil and political rights of all people (Salsabila and Tjokorda Istri 2020). The ICCPR has included rights that can be associated with the protection of the practice of euthanasia, namely Article 6 paragraph (1) which reads 'Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life'.

ICCPR general comment No.36 (General Comment on Article 6 of the ICCPR) explains that the right to life is a right that cannot be interpreted narrowly. The right to life concerns an individual's right to be free from acts or omissions that may cause death. Based on Article 6 paragraph (1) of the ICCPR, it can be said that Non-Voluntary Euthanasia violates a person's right to life. In Non-Voluntary Euthanasia, the patient cannot be asked for his/her will to stay alive but other parties such as the family make the decision to end the terminal patient's life. This can be said to be deprivation of life that is carried out arbitrarily to patients with terminal conditions.

Actually, the ICCPR accommodates two defences to the euthanasia debate on both sides, pro and con (Zhu 2022). Not only related to the right to life, Article 6 paragraph (1) also relates to the rights of self-determination. General Comment No. 36 paragraph 10 explains that the ICCPR recognises the importance of personal autonomy for human dignity. This can be a defence for the practice of voluntary euthanasia that is explicitly requested by the patient themselves. This relates to the patient's autonomy over their own life. Terminal condition patients usually cannot

bear the suffering caused by their incurable disease so they choose to request euthanasia from doctors or medical personnel.

General Comment No. 36 further explains that in order to prevent suicide especially for vulnerable individuals, member states must take appropriate measures without violating other treaties. Therefore, member states are permitted to allow medical professionals to provide medical treatment or medical methods to help people who suffer from serious illnesses and wish to pass away with dignity. So, based on Article 6 paragraph (1), the implementation of Voluntary Euthanasia can be said not to be an offence if member states have allowed euthanasia and at the same time provide strong legal and institutional protection as a goal to protect.

3. Convention on the Rights of the Child (CRC)

The Convention on the Rights of the Child (CRC) is a convention that thoroughly regulates the rights of children (Salsabila and Tjokorda Istri 2020). The CRC is an international human rights instrument designed to uphold and defend the rights of children when they are at risk of being violated. The CRC provides a foundation of rights protection for children that distinguishes them from adults.

The CRC as an international human rights instrument that protects specific rights for children has listed the rights that can be associated with the protection of the practice of euthanasia in children, including:

- a. Article 6 paragraph (1) which reads 'States Parties recognise that every child has the inherent right to life'.
- b. Article 6 paragraph (2) which reads 'States Parties shall ensure to the maximum extent possible the survival and development of the child'.
- c. Article 24 paragraph (1) CRC which reads 'States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services'.

Based on Article 6 and Article 24 paragraph (1) of the CRC, the practice of euthanasia can be said to be an offence because it has violated the child's right to life and the right to obtain child health services. Children as the future generation of the nation have the right to be preserved even though the child is a patient with a terminal condition. Doctors and medical personnel are obliged to provide quality care to paediatric patients to provide a decent chance of life.

4. Convention on the Rights of Person with Disabilities (CRPD)

The Convention on the Rights of Persons with Disabilities (CRPD) is the first and main convention that specifically regulates the rights of people with disabilities (Salsabila and Tjokorda Istri 2020). The CRPD is intended as a human rights tool with a clear social development component that adopts a classification system for persons with disabilities and restates the idea that every person with a disability should be able to exercise all fundamental human freedoms and rights.

Rights relating to the prevention of euthanasia practices among persons with disabilities are protected under the CRPD as an international human rights document that protects the specific rights of persons with disabilities. Article 10 of the CRPD which reads ‘States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others’. This article affirms that all people have an intrinsic right to life, and that states parties should take all necessary measures to ensure that persons with disabilities can effectively enjoy it on an equal basis with others. This shows that the right to life is given to every human being, without exception. While states parties to the CRPD are responsible for ensuring that persons with disabilities have equal access to medical protection and other services necessary to ensure their right to life, they are also responsible for ensuring that persons with disabilities enjoy their right to life on an equal basis with others to prevent discrimination.

In 1939, Nazi forces carried out an action called Aktion T4 where they practised euthanasia on children under 3 years old who suffered from mental retardation, disability, or other disorders that made their lives useless. The Nazis, led by Adolf Hitler, considered people with disabilities as obstacles to the progress of a nation, so the Nazis massively forced euthanasia for all people with disabilities in Berlin, Germany (Siregara 2020).

Euthanasia falls under the category of violations against persons with disabilities when it comes to Article 10 of the CRPD. Despite their limitations, persons with disabilities have the right to have their lives recognized, but this right should not be ignored or deprived as a human right. The right to life is very important, especially for those with disabilities.

Based on the international human rights instruments above, the practice of euthanasia protection is associated with the right to life, the right to self-determination, and the right to health care. These rights must be respected by every state that ratifies these instruments. Although the international instruments issued by the UN are not binding or soft law, they are transformed into legally binding treaties or hard law through ratification by member states by adding the principles in these instruments to national law so as to create soft law into *opinion juris* which creates an obligation that must be carried out (Elias et al. 2021). Therefore, member states of these international human rights instruments that legalise euthanasia must adjust the principles in accordance with the right to life, the right to self-determination, and the right to health services for the protection of euthanasia practices

3.2 Euthanasia from an International Human Rights Perspective

Belgium became the second country to legalise the practice of euthanasia after the Netherlands (Piękoś-Lorenc et al. 2021). Belgium has legalised euthanasia through the Belgian Act on Euthanasia on 28 May 2002. Euthanasia laws in Belgium are largely based on the Netherlands, which was the first country to legalize the practice. It is based

on the Dutch experience, and society is confident that any weaknesses in Dutch law will be addressed and resolved in the Belgian Act (Martin 2023).

Article 2 of the Belgian Act on Euthanasia defines euthanasia as the intentional termination of life by a person other than the person concerned, at the latter's request. According to official data from the Belgian authorities, Since euthanasia was legalised in 2002 until 2022, more than 27,000 have died as a result of euthanasia in Belgium (INTERNATIONAL 2022). Although the number of euthanasias has increased over the years, the percentage of cases involving people with a primary psychiatric diagnosis has remained stable (between 1 and 2%) (Hert, Loos, and Assche 2022). A case of euthanasia in Belgium due to depressive disorder was challenged before the European Court of Human Rights (ECtHR).

Tom Mortier, the son of the woman who was euthanized, was the applicant in this case. On October 4, 2022, the European Court of Human Rights (ECtHR) handed down its historic judgment in *Mortier v. Belgium* (no. 78017/17). The European Court of Human Rights' first judgment on whether euthanasia for mental illness is compatible with the rights guaranteed by the European Convention on Human Rights (ECHR) was handed down in *Mortier v. Belgium* (Hert et al. 2022). The ECtHR considers the compatibility of euthanasia under the enabling law with the European Convention on Human Rights (ECHR). Tom Mortier asserted that his mother's euthanasia violated Article 2 ECHR right to life and Article 8 ECHR right to private and family life (Martin 2023).

Article 2 of the ECHR generally explains that everyone's right to life must be protected by law. Exceptions to this are only in very limited situations, namely acts of self-defence, or defence of a third party. The ECHR investigated the euthanasia case against Tom Mortier's mother which allegedly violated Article 2 based on the State's positive obligation to protect the right to life (HUDOC European Court of Human Rights 2022).

The European Court of Human Rights (ECtHR) noted that the decriminalization of euthanasia in Belgium relies on the strict regulations outlined in the country's Euthanasia Act, which offers both substantive and procedural protections (S Foster 2022). On the substantive safeguards aspect, the ECtHR scrutinised the process prior to euthanasia. The Court confirmed that Mrs Mortier's decision complied with the rules in Article 3 paragraph 1 of the Belgian Law on Euthanasia i.e. it must be voluntary, well-considered and continuous and without pressure from other parties. Professor D. as the doctor who performed the euthanasia on Mrs Tom Mortier confirmed that the request was made of her own free will.

In situations such as Tom Mortier's mother who is experiencing mental suffering and death is not imminent, additional protection is provided. This additional protection is provided for in Article 3(2) of the Belgian Law on Euthanasia which briefly explains that patients with mental disorders must consult a doctor other than their treating doctor about the serious and incurable character of the disorder.

Regarding compliance with the relevant legal regulations in Mrs. Mortier's situation, the Court found that Professor D had conferred with an additional psychiatrist and verified that Tom Mortier's mother met the requirements for euthanasia. In addition, the euthanasia was carried out approximately two months after the written request made by Mrs Tom Mortier was formally submitted. This is also in accordance with Article 3 paragraph 4 which stipulates that the request for euthanasia must be made in writing and Article 3 paragraph 3 which explains that there is at least one month between the written request and the execution of euthanasia.

Taking into account all the above considerations in relation to the actions and procedures prior to euthanasia. The EHCR concludes that there is no violation of Article 2 on the aspect of substantive safeguards before euthanasia. The procedures carried out by Mrs Mortier, the Professor, and the other two psychiatrists were in accordance with the applicable rules of the Belgian Law on Euthanasia. The provisions of the Act are legal guidelines that can ensure the preservation of the patient's right to life, as stated in Article 2 of the EHCR (HUDOC European Court of Human Rights 2022).

On the aspect of procedural safeguards, the ECtHR observed the post-implementation process of Mrs Tom Mortier's euthanasia, namely the review by the Federal Control and Evaluation Commission (here in after referred to as the Commission). The European Court of Human Rights (ECtHR) stated that two judicial reviews had been conducted to ascertain whether the euthanasia at issue was legal (S Foster 2022). The Belgian Law on Euthanasia has provided for an automatic review mechanism by the Commission for each euthanasia performed. This review must be carried out with great care and caution.

Regarding the Commission's review, Tom Mortier argued that because Professor D, the person who performed the euthanasia in this case, was also the vice-chair of the Commission, the Commission could not provide an unbiased conclusion regarding the legality of his mother's death. In the context of euthanasia, the independence of the Commission is essential for protection (Martin 2023). In conducting the judicial review proceedings, the Commission has verified based on the anonymity of parts of the registration documents that the euthanasia performed on Mrs Tom Mortier was performed in accordance with the legal provisions and procedures in the Belgian Act on Euthanasia.

The registration records of persons undergoing euthanasia are private, according to Belgian law governing the practice. The European Court of Human Rights recognizes that maintaining confidentiality serves to protect the anonymity of both parties and the confidentiality of the personal information included in the registration. Nevertheless, based on anonymized parts of the registration document, the ECtHR believes that the system used by the Commission for the evaluation of euthanasia does not fill the standards under Article 2 ECHR. This is because doctors who perform euthanasia can still vote and be members of the Commission, regardless of whether the procedure

complies with the procedural and substantive standards outlined in national law. If Professor D is involved in the euthanasia under review, his decision to remain silent cannot be considered sufficient to guarantee the independence of the Commission. The ECtHR emphasises that review mechanisms implemented at national level to determine euthanasia of patients treated by health professionals must be independent (S Foster 2022).

Another aspect of procedural safeguards relating to the post-euthanasia process is the investigation process. In deaths resulting from euthanasia performed under the law there is usually no need for an investigation. However, it becomes mandatory when there is a criminal complaint by the patient's relatives indicating the existence of suspicious circumstances. Therefore, in relation to the criminal complaint filed by Tom Mortier, which plausibly alleged that the law on euthanasia was not complied with in this case, the Belgian authorities were obliged to conduct a criminal investigation (HUDOC European Court of Human Rights 2022).

The European Court of Human Rights believes that the investigation procedure was generally slow and did not fill timeliness requirements, therefore the investigation procedure has not fulfilled of Article 2 of the ECHR. The public prosecutor at the time chose not to pursue the original investigation, even though it had been ongoing for about three years and one month. In April 2014, Tom Mortier filed charges against Professor D with the public prosecutor. Three years later, in May 2017, he filed more allegations. The public prosecutor informed Tom Mortier, the applicant, that his charges had been dropped due to insufficient evidence. A medical professor was assigned as an expert to support the investigating judge in the second investigation, which began in May 2019 and resulted in a report that was completed in May 2020.

Considering the procedural factors surrounding the euthanasia of Mrs. Tom Mortier, the European Court of Human Rights concluded that the Belgian state had not fulfilled its procedural obligations due to the lack of independence of the Commission. No matter how much influence Professor D's choice had on the Commission's choice, this did not guarantee the Commission's independence. The European Court of Human Rights also concluded that due to the lengthy and ineffective investigation conducted by the Belgian state, the Belgian state did not fulfill its procedural obligations. The ECtHR notes that investigations must be swift, effective in the sense that they can establish the facts relating to the case and hold people properly accountable (Martin 2023). This failure is considered a separate but related offence to the Article 2 ECHR charge.

In addition to bringing an Article 2 ECHR claim, Tom Mortier also brought a claim under Article 8 of the ECHR which deals with the right to respect for private and family life. The general explanation of this article is that everyone has the right to respect for their home, family, and correspondence, and that public authorities should not interfere with the exercise of this right unless it is required by law.

Tom Mortier also asserted that his involvement in his mother's euthanasia should be covered by the government, arguing that it was an invasion of his right to privacy

and family life (Hert et al. 2022). The Belgian Law on Euthanasia has regulated family involvement in the euthanasia process in Article 3 paragraph (2) No. 5 and 6. According to the article, doctors can talk to family members of the patient's choosing about the euthanasia request if the patient wishes. This allows the patient to talk to the person he wants to see and discuss his request. In violation of their duty to protect the patient's privacy, doctors cannot contact the patient's family.

The ECtHR has found that Professor D, Mrs Tom Mortier's attending physician, Dr T and VD, the psychiatrist, on several occasions persuaded Mrs Tom Mortier to contact her family to discuss her request for euthanasia but she persistently refused. Eventually, at the request of the doctors, Mrs Tom Mortier conveyed her wish to her children, Tom Mortier (the Applicant) and his sister, for euthanasia by e-mail. Tom Mortier's sister replied to his mother's e-mail saying that she respected his mother's wish for euthanasia, but Tom Mortier did not respond to the e-mail.

The ECtHR concluded that there was no violation of Article 8 ECHR. The European Court of Human Rights (ECtHR) determined that, given that Tom Mortier's relationship with his mother had long since collapsed, the doctors who supported Tom Mortier's mother had taken all reasonable legal steps to guarantee that she informed her children of her desire for euthanasia. In addition, they have fulfilled their obligation to uphold medical and ethical confidentiality and ethical guidelines.

This ECtHR ruling is an important lesson for countries that will implement or consider Euthanasia Laws especially for other countries that want to adopt the Belgian Law on Euthanasia in their national law. Just as Belgium follows the example of the Netherlands in relation to the rules on euthanasia, other countries can also use Belgium as a reference for the formation of rules on the legality of euthanasia by adjusting the existing norms according to their respective countries. The rules on euthanasia in Belgium have regulated the implementation of euthanasia, both pre-euthanasia and post-euthanasia. However, the Belgian Law on Euthanasia does not clearly regulate the independence of the Commission. This should be considered by other countries that want to adopt the Belgian Law on Euthanasia to pay attention to the rules of independence of the supervisor of the implementation of post-euthanasia so that something similar to the case of Mrs Tom Mortier does not happen.

4 Conclusion

The protection of euthanasia in international law can be found in international human rights instruments that regulate the right to life, the right to self-determination, and the right to health care. These human rights instruments include the UDHR, ICCPR, CRC, and CRPD. Euthanasia is categorised as a violation if the euthanasia is not at the patient's voluntary request because it takes away the patient's right to life and right to access health care.

The ECtHR allows member states to decriminalise euthanasia as long as their national laws provide clear and prudent protections. The ECtHR considered that the case of euthanasia performed by Mrs Tom Mortier did not constitute a violation of Article 2 ECHR and Article 8 ECHR. However, the ECtHR considered that the procedural safeguards after euthanasia were considered inadequate because the doctor who performed the euthanasia was included in the Commission, which affected his independence. In addition, the ECtHR considers that the slow pace of the investigation into Tom Mortier's case does not fulfil the requirement of effectiveness.

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