

German court scraps ban on professional assisted suicide

February 26 2020, by Carsten Hauptmeier



The ruling is a major victory for terminally ill patients, doctors and assisted suicide organisations who argued the existing assisted suicide law went too far

Germany's highest court on Wednesday ruled that a 2015 law banning professional assisted suicide was unconstitutional, saying in a landmark

decision that people have "the right to a self-determined death".

The ruling is a major victory for the terminally ill patients, doctors and assisted suicide organisations who brought the case, complaining that the existing law went too far.

Judge Andreas Vosskuhle at the Federal Constitutional Court in Karlsruhe said the right to a self-determined death included "the freedom to take one's life and seek help doing so".

The court also surprised observers by explicitly stating that the right to assisted suicide services should not be limited to the seriously or incurably ill.

The freedom to choose one's death "is guaranteed in all stages of a person's existence", the verdict read.

Passed by lawmakers in 2015, the existing law, known as Paragraph 217, was mainly aimed at barring associations dedicated to helping patients wanting to die.

It also meant medical personnel faced prosecution for prescribing life-terminating drugs.

The legal uncertainty worsened when a lower court ruled in 2017 that officials could not refuse lethal medication in extreme cases, creating confusion among doctors.

Wednesday's verdict was closely watched in a fast-ageing country where Catholic and Protestant Churches still exert strong influence, but polls show growing public support for physician-assisted suicide.

It is also a sensitive subject in Germany as the Nazis used what they

euphemistically called "euthanasia" to exterminate around 200,000 disabled people.

Right to dignity

At the heart of the debate was the plaintiffs' argument that Germany's constitution guarantees personal freedom and dignity, which they said includes the right to choose when and how to die.

The court agreed with their reasoning and found the restrictions imposed by Paragraph 217 made it "impossible" for people to receive help from third party professionals in Germany.

Under Paragraph 217, professionals falling foul of the law risked a fine or up to three years in prison.

This left German patients turning to family members or loved ones for help, some getting life-terminating medicine from abroad.

Judge Vosskuhle said those who wanted to offer suicide assistance must be legally allowed to, without however being forced to do so.

The court stressed however that legislators still had "a broad spectrum" of options to regulate assisted suicide, for instance through mandatory waiting periods or consumer protection standards for assisted suicide associations.

The German government said it would study the court's verdict "very closely" before deciding the next course of action.

Church representatives reacted with dismay to the annulment of Paragraph 217.

'Pressure'

In a joint statement, the German Bishops' Conference and the Evangelical Church of Germany said they feared elderly or sick people would feel "internal or external pressure" to make use of assisted suicide services.

Judge Vosskuhle acknowledged that the ruling would not please everyone but said the decision of those wishing to end their lives had to be respected.

"We may regret their decision and try everything we can do change their minds but ultimately we must accept their freedom to choose," he said.

Ahead of the ruling, the German Medical Association had also opposed any relaxing of Paragraph 217, fearing it could open the door to euthanasia, where doctors take an active role in helping a patient die, for instance through lethal injection.

Euthanasia is officially legal in only three European Union countries—the Netherlands, Belgium and Luxembourg—but others allow or tolerate a form of assisted suicide.

In non-EU Switzerland, as well as in the US states of Vermont, Oregon and Washington, assisted suicide is legal.

A survey for broadcaster ARD on Tuesday found that 81 percent of Germans believed doctors should be allowed to help severely ill patients with their wish to die, up from 76 percent in 2012.

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