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**Olesya Igorevna Vlasova** – assistant of the "International law" chair of the Tambov state technical university (Tambov). *E-mail: fibyla@inbox.ru*

**Anatoliy Nikolaevich Popov** – docent of the "International law" chair of the Tambov state technical university (Tambov). *E-mail: popov.popov-anatoliy@yandex.ru*

**The problem of euthanasia in Russia: pros and cons**

*The phenomenon of euthanasia is a reason for reflection of the public legal consciousness of the population. Due to the fact that human life is the main value of modern civilization, the problem of euthanasia has acquired a different path on demand. The value of human life against towards the all legal and moral realities creates any socio-legal problem (for example, permissibility of the death penalty, abortion, human cloning), in a particular aspect affecting the right to life, to the rank of universal, global problems. The article conducts theoretical analysis of the problems of euthanasia in Russia and abroad. Classification of euthanasia groups is given. The problem of euthanasia in the science of criminal law of Russia and foreign countries is examined. General conclusions, showing the advantages and disadvantages of the existing legislation in the field of euthanasia are formulated. The theme is insufficiently explored, however, there is a literature touching upon these problems, bearing fragmentary, journalistic character, revealing only the certain aspects of the problem, which in turn complicates or makes impossible using of the conclusions in the legal field.*

**Проблемы эвтаназии в России: за и против**

*Явление эвтаназии – повод для размышления общественно-правового сознания населения. В связи с тем, что человеческая жизнь является главной ценностью современной цивилизации, проблема эвтаназии приобрела иной путь востребования. Ценность человеческой жизни по отношению ко всем правовым и нравственным реалиям возводит любую общественно-правовую проблему (например, допустимость смертной казни, абортов, клонирования человека), в том или ином аспекте затрагивающую право на жизнь, в ранг общечеловеческих, глобальных проблем современности. В статье проводится теоретический анализ проблем эвтаназии в России и за рубежом. Дается классификация эвтаназии по группам. Рассматривается проблема эвтаназии в науке уголовного права России и зарубежных государств. Сформулированы общие выводы, показывающие достоинства и недостатки существующего законодательства в области эвтаназии. Рассматриваемая тематика является малоизученной, тем не менее, существует массив литературы, так или иначе затрагивающей данную проблематику, носящей фрагментарный, публицистический характер, раскрывающей лишь отдельные аспекты проблемы, что, в свою очередь, затрудняет либо делает абсолютно невозможным использование полученных выводов в правовой сфере.*

***Keywords:*** *аctive euthanasia, passive euthanasia, voluntary euthanasia, involuntary euthanasia, direct euthanasia, indirect euthanasia.*

***Ключевые слова:*** *активная эвтаназия, пассивная эвтаназия, добровольная эвтаназия, принудительная эвтаназия, прямая эвтаназия, непрямая эвтаназия.*

This subject is among the low-studied, about what tells the insufficient number of special monographic researches about, fully and objectively reflecting, in general, the legal and, in particular, criminal and legal aspect of euthanasia.

After the beginning of democratic transformations Russia follows the direct course towards creation of the constitutional state in which the supreme value as the Constitution of the Russian Federation proclaims, the person, his rights and freedoms are. The constitution of the Russian Federation, carrying out (besides the others) the function of legal providing the legal system of Russia, in the article 20 affirms a human right on life. The state seeks to provide and guarantee everyone this right.

In relation to euthanasia classification is developed (A.Ya. Ivanyushkin, V.A. Rybin and A.M. Dyukareva), formed by three groups of pair categories which quite fully describe the possible practical situations: active – passive, voluntary – compulsory, direct – indirect.

Now active euthanasia is completely legalized only in the Netherlands where it widely practices in all its forms. The Netherlands became the first-ever country which has legalized euthanasia. 104 deputies, against – 40 have voted for the bill in the Dutch parliament. Thus, Holland has legalized voluntary death of a hopelessly sick patient by hand of the doctor.

Quietly treat euthanasia not only in Holland. According to the American medical association, the most part of patients dying in hospitals of the USA die voluntarily by the means of medical staff. In the American state of Oregon so-called "suicide by the means of other person" is authorized. About it one tells when the doctor prescribes the patient deadly tablets. But, at the same time, there isn't allowed give to the patient drugs.

The law of the State of Oregon, in particular, has provided very rigid set of rules of implementation of euthanasia, besides, medical consultations to the patient intending to commit suicide aren't exposed to criminal prosecution; in this American state the doctor can write out to the patient (but not to give himself) preparations causing death.

Considering the euthanasia problem, it is necessary to concern also children's euthanasia. This question has raised in the society still big disputes, than just adoption of the law on euthanasia legalization.

The Dutch doctors support adoption of the law, allowing interrupt the life of newborns with incurable diseases. Doctors from 8 hospitals have signed the appeal in which they ask the authorities of the Netherlands to create a commission of experts for consideration of this question. The commission about which doctors write has to determine a set of criteria which could be applied to euthanasia of babies. Very small number of newborns has the hardest diseases about which there is a speech: in a year about 600 cases in the world, from them in Holland – around 10 - 15. In particular, it can be the children who don't have a brain. One of the university clinics has made the draft document, describing in what cases killing of babies can be justified. On this paper sharp reaction of Vatican has come at once.

The vice-president of Papal academy in protection of the life has subjected to sharp criticism the initiative of the Dutch legislators who have suggested legalize children's euthanasia.

The European Muslims have also spoken against children's euthanasia. The Islamic Council of Europe on fatwahs and researches (further – ECFR) has decided that "active" and "passive" euthanasia or as it is called "murder from mercy" is suicide and, therefore, is forbidden in Islam. The Anglican Church has urged to give to physicians the right to deprive of life of babies, seriously ill since the birth.

Thus, we pay attention that in the world there is no unambiguous opinion on the existing problem, but, at the same time, it should be noted that the priests practically of all countries of the world are against both euthanasia in general, and its private use for children.

In Russia euthanasia is forbidden. But there are certain documents by which the doctors are guided. For example, according to the article 45 of the Bases of the legislation of the Russian Federation on protection of public health, euthanasia represents "satisfaction with the medical personnel of a request of the patient for fastening of his death with any actions or means, including termination of the artificial measures for the maintenance of life". As further formulates the article 45, "… the person who consciously induces the patient to euthanasia and (or) makes euthanasia, bears criminal liability according to the legislation of the Russian Federation".

However, according to the article 33 of the Bases of the legislation of the Russian Federation on protection of public health, the citizen has the right to refuse medical intervention or to demand its termination [1]. According to this article, at refusal "… possible consequences have to be explained to the citizen or his lawful representative in a form, available to him. Refusal of medical intervention with the indication of possible consequences is made out by the entry in medical documentation and is signed by the citizen or his lawful representative, and also the medical worker".

According to the Russian legislation, so-called "involuntary" or "compulsory" euthanasia isn't euthanasia in a true sense of the word as doesn't consider the patient will; so-called "compulsory euthanasia" is a form of murder.

It would be desirable to address also the international law, in particular the Declaration on euthanasia (adopted by the 39th World medical assembly, Madrid, Spain, October, 1987). Euthanasia as the act of deliberate deprivation of life of the patient (even at the request of the patient or on the basis of the address with a similar request of his relatives) – isn't ethic. It doesn't exclude the need of respect of the doctor for desire of the patient not to interfere with the course of natural process of dying in a terminal phase of disease.

In the science of criminal law of Russia and the foreign states the problem of euthanasia is quite often considered from already mentioned position of the broader concept – consent of the victim to infliction of harm.

The Russian criminal law recognizes from the fact that such consent, by the general rule, shouldn't be considered as the circumstance excluding the crime of the act. Therefore the position of the existing criminal legislation of Russia concerning euthanasia is unambiguous: this murder – deliberate, illegal deprivation of life of the other person. The motive of compassion specified in the list of circumstances provided in the article 61 of CC of the Russian Federation can be considered only at assignment of punishment to the perpetrator, but not at qualification of the act. Murder for motive of compassion is qualified according to p.1 of the article 105 of CC of the Russian Federation i.e. as simple murder [3].

As for inducement to euthanasia (and in general to murder), our CC doesn't provide responsibility for such act, only the structure of bringing to the suicide (Art. 110) assuming a certain way of commission is provided in CC of the Russian Federation: using of threats, systematic humiliation of human dignity of the victim. Even if to recognize the act of euthanasia as a suicide form by the means of the doctor, then and in this case it is impossible to punish the person who has inclined the patient to euthanasia.

Thus, the problems connected with euthanasia concern the legislators and the public of many modern states, there are a subject of discussion and researches of the specialists of different fields. It is necessary to understand that any right including criminal, can't provide all private cases. The decisions made by medicine can't be replaced by the legal. Especially it concerns human life. But such problem as euthanasia is and it requires the solution including legal. In our opinion, the question of euthanasia should be resolved in the presence of the most sick or his representative having the will documented in advance if it is impossible for a number of reasons, all the same the question of killing shouldn't be resolved by one person, and, for example, by consultation of the doctors. Also it is necessary not to allow physical suffering of the dying even by application of those means which in the other cases would be contraindicated. Only in this case, as a result, the death, but already at the patient will is possible.

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