

PRESS RELEASE

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Ethics Council rejects claim to state support during suicide

The German Ethics Council recommends that the due respect for individual decisions about the end of one's own life not be supplemented by a state obligation for suicide support. The Ethics Council thereby opposes the judgment of the *Bundesverwaltungsgericht* (Federal Administrative Court) from 2 March 2017.

At the beginning of March, the Federal Administrative Court (Case number: BVerwG 3 C 19.15) decided that the general personality right from Article 2 (1) in conjunction with Article 1 (1) of the *Grundgesetz* (Basic Law) also encompasses "the right of a seriously and incurably ill patient to decide how and at what point in time his or her life should be ended, provided that the person is able to freely form his or her own will and act accordingly. In the extreme individual case it can arise from this that the state is not allowed to refuse access to a narcotic that enables a dignified and painless suicide for the patient". The grounds for the judgment are available as of 17 May.

By a majority, the German Ethics Council is of the opinion that basic ethical evaluations are circumvented by this judgment: It does not confine itself to respecting individual urges to suicide. Rather, it forces the *Bundesinstitut für Arzneimittel und Medizinprodukte* (Federal Institute for Drugs and Medical Devices) to monitor suicide wishes on the basis of certain material criteria and, if applicable, support their realization through an authorization for the purchase of a lethally active substance.

In this way, a state agency becomes the obligatory addressee for suicide assistance, which is consequently made dependent on a state assessment and authorization. This contradicts the ethically guiding principle, recently expressed once again in Section 217 of the *Strafgesetzbuch* (Criminal Code) and underlying the entire system of (criminal-)legal protection of life, of state neutrality vis-à-vis conceptions of what kind of life is worth living, and it simultaneously puts into question the highly personal nature of suicide wishes. The idea that these could be assessed and legitimized by the state is likely to weaken those social norms and convictions in which the special respect for each human life is expressed. It hence also runs counter to the central demand for a strengthening of measures and structures to prevent suicide.

A minority of the German Ethics Council holds the judgment of the Federal Administrative Court, on the other hand, to be ethically well-considered and welcome. According to the minority, it is in agreement with the moral duty underlying the principle of necessity, especially in existential borderline cases to not allow turning a generally justifiable prohibition into the requirement for inhumaneness. According to the view of the minority, this should be

German Ethics Council

The German Ethics Council shall pursue the ethical, social, scientific, medical and legal questions and the anticipated consequences for the individual and society that result in connection with research and development, especially in the field of the life sciences and their application to humankind. The German Ethics Council has 26 members who are appointed for a period of four years by the President of the German Bundestag, half on the proposal of the German Bundestag and half on the proposal of the Federal Government.

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included in the *Betäubungsmittelgesetz* (Narcotic Drugs Act) in terms of a clarifying and specifying regulation.

Notwithstanding this disagreement, the German Ethics Council in its entirety reaffirms the demand for a strengthening of suicide-prevention measures as well as for an expansion of not only hospice and palliative care in the outpatient and inpatient sector, but also generally of care for people in the last stage of life.

Contrary to the problematic new orientation of the normative regulatory framework suggested by the Federal Administrative Court, the majority of the Council recommends adhering to the basic ethical framework, recently once again affirmed legislatively, and not to supplement the due respect for individual decisions about one's own end of life with a state obligation for suicide support.

The complete text of the Ad Hoc Recommendation can be found at <http://www.ethikrat.org/files/recommendation-suicide-prevention.pdf>.