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Legal Comparison of Euthanasia Legislation of Finland, the Czech Republic, and the Netherlands

Comparative Legal Research
Bachelor's thesis

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Abstract

In 2002 the Netherlands became the first country to legalize euthanasia in their legislation. However, euthanasia is an issue that needs to be solved in any given legal system, even if the opposite stance is taken. It concerns an area of the highest value: human life. Inside the European Union, legal systems have taken different approaches to the issue: some countries allow active euthanasia and assisted suicide, others allow passive euthanasia and some countries do not allow either.

In this study, I will establish the legislative approaches taken by the Dutch, Finnish and Czech legal systems and find similarities and differences between the countries' approaches using the disputed functional method of comparative law. The goal is to reveal which system deals with euthanasia with the most precision from an individual citizen's standpoint. After determining the best system, I will establish whether the Finnish or Czech systems are in a closer state to adopt the Dutch euthanasia legislation.

In the study, it was found that the Dutch system was the most precise in dealing with euthanasia, and the Finnish system left the most gaps in legislation regarding euthanasia-related questions. Afterwards, it was determined if the Finnish or Czech system was in a closer state to adopt Dutch euthanasia legislation. The conclusion was made that Finland was closer than the Czech Republic due to legislation being more permissive to 'letting die' among other reasons.

Vuonna 2002 Alankomaista tuli ensimmäinen maa, joka laillisti eutanasian lainsäädännössään. Eutanasia on kysymys, joka on ratkaistava missä tahansa oikeusjärjestelmässä, vaikka siihen otettaisiin vastakkainen kanta. Se koskettaa ehkä tärkeintä arvoa: ihmiselämää. Euroopan unionin oikeusjärjestelmissä on omaksuttu erilaisia lähestymistapoja asiaan. Jotkin maat sallivat aktiivisen eutanasian ja avustetun itsemurhan, toiset passiivisen eutanasian ja jotkin maat eivät salli kumpaakaan.

Tässä tutkimuksessa selvitän Alankomaiden, Suomen ja Tšekin oikeusjärjestelmien lainsäädännöllisiä lähestymistapoja ja etsin maiden lähestymistapojen välisiä yhtäläisyyksiä ja eroja vertailevan oikeustieteen kiistanalaisen funktionaalisen menetelmän avulla. Tavoitteena on paljastaa, mikä järjestelmä sääntelee eutanasiaa tarkimmin yksittäisen kansalaisen näkökulmasta. Sen jälkeen tarkoituksena on selvittää, onko Suomen vai Tšekin järjestelmä lähempänä Alankomaiden eutanasiaa koskevan lainsäädännön omaksumista.

Tutkimuksessa havaittiin, että Alankomaiden järjestelmä sääntelee eutanasiaa tarkimmin, kun taas Suomen järjestelmä jättää eniten aukkoja lainsäädäntöönsä eutanasiaan liittyvien kysymysten osalta. Kun selvitettiin, oliko Suomen vai Tšekin järjestelmä lähempänä Alankomaiden eutanasiaa koskevan lainsäädännön omaksumista, päädyttiin siihen, että Suomi oli lähempänä kuin Tšekki, koska Suomen lainsäädäntö oli sallivampi 'kuolemissa sallimisen' suhteen, muiden syiden ohella.

Key words: euthanasia, comparative law, active euthanasia, assisted suicide, passive euthanasia

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List of Abbreviations

CC	criminal code
EU	European Union
HSA	Health Services Act [cze]
FMA	Finnish Medical Association
CZE	The Czech Republic / Czech
FI	Finland / Finnish
NL	The Netherlands / Dutch

Appendix

This thesis is based on coursework from the specialization course ‘Comparative Legal Research’ in the University of Turku under the supervisor Hanna Malik. The coursework was completed in a group of four people. The idea and main structure follow the coursework, but it focuses more on the areas where I worked in the paper. The discoveries and text in this paper are my own. Czech exchange student Petr Topinka has helped me find sources and translate Czech material used in the paper, especially explanatory memorandums of the Czech parliament. Many of the references used in the coursework are also used in this thesis, and many of these were originally found by Henri Tuovinen in the case of the Netherlands and Juuso Mäkinen in the case of Finland.

1 Introduction

Euthanasia on a first thought can be imagined as a simple institution: a suffering patient asks for a deadly dose of a medicine, which a doctor supplies for them, killing them in the process. However, euthanasia is more than that, it is a legal and extra-legal issue, of which the legislation varies widely between even the European Union member states. Euthanasia is a moral, social, and cultural issue. When examining the term of euthanasia, it becomes evident that it does not necessarily mean only one thing, but that it can be divided into different definitions which have their nuances. It is not always only about a doctor supplying deadly injections to patients.

At the heart of the issue is individual's rights: to what extent does individual have the right to make decisions about their own death and where do the rights and duties of healthcare professionals and institutions fall in the euthanasia issue?

In this study I will research the legal arrangements made by three EU countries: the Czech Republic, Finland and the Netherlands in legislating euthanasia. Currently, the three countries all legislate euthanasia differently. The Dutch system is the most tolerant of euthanasia, as it has legalized all forms of it. The Finnish and Czech systems have not legalized active euthanasia, but they still have their differences between each other in how they legislate issues that relate to euthanasia. I will not be focusing on the issue of euthanasia from the direction of 'should it be legal?' as I am conflicted on the issue myself too. I am a firm believer in individual rights and self-determination, but euthanasia is in the heart of the most valuable asset any human can have – life, an area where one must naturally tread carefully. Still, in situations of immense pain and suffering, I find it hard to justify sustaining the life of a patient against their own will and not giving them the choice not to live anymore.

The three countries in the study all are members of the EU and the Council of Europe and operate under the European Convention on Human Rights and the Charter of Fundamental Rights of the EU. Thus, they must abide by both Charters. The Right to life is protected in the Charter of Fundamental Rights of the European Union Article 2, which states, that "(1) everyone has the right to life and (2) No one shall be condemned to the death penalty, or executed." European Convention on Human Rights also has a similar provision in its Article 2. Regardless of both these articles, the Netherlands has managed to legalize euthanasia without being in breach of the Charters. The Right to life must still be kept in mind when

exploring the Dutch approach to euthanasia. Comparative analysis can provide feedback on how the legislative choices of the countries resonate with the Charters' right-to-life articles, especially from the viewpoint of how the Netherlands has managed to legalize euthanasia while not being in breach of the right to life. Comparison can yield information about what measures would be efficient for Finland and the Czech Republic to take to legalize euthanasia and not breach the right to life.

It is vital to make distinctions between different types of euthanasia as precisely as possible, as it enables the study to find meaningful differences and similarities between the selected systems. I will present the necessary definitions that can be seen as falling under euthanasia. It is somewhat contested, whether all the upcoming definitions fall under the term euthanasia per se, but all the definitions and phenomena behind them include some form of 'letting a patient die', which can be used as an indicator of the systems' approach to euthanasia-related questions.

Comparative law in general, and even more so the functional method I have chosen for the research, is like walking on a battlefield. To opponents, the functional method isn't a method at all, while supporters swear to it. A good chunk of the paper will be spent on justifying the method choice to not arrogantly step on any toes.

2 Objectives, Methods, and Research Data

2.1 Objectives

Euthanasia is a phenomenon that needs to be solved in the legislation of any given country. Sometimes the laws governing euthanasia can be precise, meant to control euthanasia specifically, but sometimes, citizens must make assumptions about how euthanasia-themed questions are solved in any given country. The first objective of the study (and comparative law in general) is to provide knowledge¹: to define the legal arrangements made by the systems, focus on their current legislative choices regarding euthanasia, the main emphasis being on the written laws, and find where the potential differences lie between the countries. To achieve this, country reports built of the countries' relevant legislation are made. While defining the legal arrangements, an eye is kept also on the functions of the laws that legislate euthanasia, to find if they serve more functions than only legislating euthanasia, or are they more specifically tailored to regulate euthanasia-specific situations. Once the legal arrangements have been defined with their similarities and differences, I will declare the system that succeeds the best in legislating euthanasia, with the criteria being how clear the legislation is to individuals.

The second objective is to answer the research question 'Which system, Finland or the Czech Republic, is in a closer state to adopt the Dutch euthanasia legislation into their legal system?'. The Netherlands is used as a comparative yardstick in the comparison. This is reasoned by the fact that the Netherlands was the first country in the European Union to legalize euthanasia and assisted suicide.² Therefore the Netherlands should serve as an example of a country that has made the required legislative steps in legalizing euthanasia, all while operating under the same Charter of Fundamental Rights of the European Union as Finland and the Czech Republic. The answer to the question will be determined through the analysis of the relevant legislative materials, while also considering the parliamentary hearings and professional communities' opinions while also taking the citizens' support of legalizing euthanasia into account.

¹ Zweigert, Kötz, 1998, pp 15

² J. Wise, 2001

2.2 Methods and Research Data

The legal comparison will be done with the functional method following the blueprint by Konrad Zweigert and Hein Kötz. The method is used to determine the functions of the current laws of all the three selected countries and how they achieve their goal of legislating euthanasia, while taking respective differences or gaps in legislation into account. The functional method has received and continues to receive critique. According to the opponents, the functional method isn't a method of comparative law at all. Both the supporters and opponents of the functional method reference a single chapter of Zweigert's and Kötz's book "An Introduction to Comparative Law" in their arguments half a century later after the book's original release.³ Another significant critique of Zweigert considers the presumption of similarity, '*praesumptio similitudinis*'. According to it, there is a need for functionalist comparative law to assume similarity in different solutions between systems to achieve comparability. The assumption has gathered the most critique in the history of comparative law according to Michaels.⁴ With critique being extensive, I must tread carefully in my research. I must make sure in my research that the systems use functionally equivalent institutions and unfortunately it requires the use of assumptions to some extent.

The functional method by Zweigert and Kötz is used because I believe it still fits the role, as it is especially usable in cases of culturally adjacent systems and takes similarities and differences into account well.⁵ According to Husa, the strong side of functional approach is, that it provides a methodological possibility to compare law or legal systems in an orderly and systematic manner⁶, which is one of the goals of the research. The functional theory requires, that every question can be asked from every legal system from an outsider's point of view in epistemological sense.⁷

The planned process of using the Zweigert-Kötz method goes as follows: a functional question of "How is euthanasia controlled in the selected countries and what are the differences between the legislative solutions?" is posed. Then the systems and their legislative choices for solving the euthanasia issue are presented and then put in a table format. Then the similarities and differences of the legislative choices are listed. After this, a partial judgement

³ Michaels, 2006, pp. 340–341

⁴ Michaels, 2006, pp. 369

⁵ Husa, 2003, p. 425–426

⁶ Husa, 2013, pp. 13

⁷ Husa, 2003, pp. 427

is declared on which of the systems controls euthanasia “the best” from the point of view of an individual, meaning which of the systems is clearest for the individual to understand.

Finally, the better system to adopt the Dutch legislation is determined through critical evaluation of the discoveries made in the countries’ legislative choices and other data. During the research, the parliamentary hearings, professional communities’ views, explanatory memorandums of the laws, case law if available, and citizens’ support of legalization are critically considered where needed. I believe drawing the data into the comparison is especially important because it can be hard to determine which system is better to adopt the Dutch system through only the legislative materials. As Zweigert himself was aware, the empirical data collected by a comparatist lacks authority – this causes the comparatist to be bound by assumptions in determining the better law. Naturally, this causes the comparative project to be limited to providing mere ‘working hypotheses’ that lack scientific authority. However, the functional approach and better law theory in unison still enable the comparatist to determine the better doctrinal formulation.⁸ When I make the assertion whether the Finnish or Czech system is the better system to adopt Dutch legislation, it must be taken with a grain of salt. As the better law comparison relies on assumptions, my conclusion on this matter is merely a hypothesis that lacks real authority. It can still shed some light and provide context to the differences found on the legislative level.

“Function” is a word one can read in papers about the functional method of comparative law all the time, but an exhaustive answer is rarely available. It is important to define what I mean by function of law in the context of this research. According to Hahn, the function of law can be understood as to create order by establishing a framework and then dealing with conflicts of the law.⁹ According to Husa, due to Zweigert’s and Kötz’s assumption of similarity and the main focus on legal norms, function is only “a loose methodological catchword”.¹⁰ The function of law in this study is understood as the legal framework established to control euthanasia and how the conflicts with law are solved.

The countries that have been chosen for the study are Finland, the Czech Republic, and the Netherlands. This is reasoned by the fact that the Netherlands is an example of a country that

⁸ Michaels, 2006, pp. 373–375

⁹ Hahn, 2022, pp. 77

¹⁰ Husa, 2013 pp. 14

has widely legalized active euthanasia¹¹, Finland is an example of a country that allows passive euthanasia¹², and the Czech Republic is a country that doesn't allow either¹³. This information will be further presented to the reader in the later parts of the paper.

Quantitatively, the research will be multilateral, limited to the three selected countries of the EU. Their legal cultures are in the civil law tradition, drawing from Germanic law, and their legal frameworks are horizontally on the same level under the EU. Thus, the comparison will be horizontal and monocultural.

¹¹ World Federation Right to Die Societies: Termination of Life on Request and Assisted Suicide (Review Procedures) Act.

¹² Laki potilaan asemasta ja oikeuksista (785/1992) 6 §, Act on the Status and Rights of Patients section 6

¹³ Czech Health Services Act (*Zákon č. 372/2011 Sb.*) Section 34 (4) [cze]

3 Definitions and Characteristics of the Three Legal Systems

3.1 Definitions

To begin with the study, it is important to disclose the terms and definitions that will be used. Euthanasia is an umbrella term that can be split into two main types of euthanasia, active and passive euthanasia.¹⁴ Making the distinctions between different types of euthanasia is crucial to begin finding similarities and differences in the countries' euthanasia legislations. In comparative research, there's a need to establish a special syntax and vocabulary to build a coherent system and to be able to 'cast a net wide enough'.¹⁵ It is to be noted that in this paper, only voluntary acts of euthanasia are considered. Patient's autonomy and the role of the doctor performing euthanasia must always be balanced with each other when discussing euthanasia. A doctor's role in appropriately executed euthanasia is vital and no doctor should be forced to perform euthanasia against their moral values. In this study, the doctor's role is considered voluntary. One must note that if society does not allow euthanasia in the first place, it does not matter how patient's autonomy or the doctor's role in euthanasia is handled. The definitions of active and passive euthanasia presented here are not something I came up on my own but have been created in previous studies. Notably James Rachels in 1975 critically analysed and further developed the terms of active and passive euthanasia, making distinctions between the two.¹⁶

3.1.1 Active Euthanasia

In this study, active euthanasia is an umbrella term. It means either that (1) a doctor administers a lethal substance to the patient who has asked for euthanasia or (2) assisted suicide, where a doctor provides the lethal substance for the patient to administer themselves.¹⁷ Active euthanasia acts are considered intentional because the perpetrator administering or supplying the lethal dose is knowingly and intentionally causing the death of the patient. The intentionality of the act is important because if the act was done in negligence, it wouldn't be euthanasia at all.

¹⁴ School of Medicine, University of Missouri

¹⁵ Zweigert, Kötz, 1998, pp. 44

¹⁶ Rachels, 1975, pp. 78–80

¹⁷ WMA Declaration on Euthanasia and Physician-assisted Suicide

3.1.2 Assisted Suicide

Assisted suicide can be seen as falling under the ‘active euthanasia’ umbrella term. I will still separate the terms from each other as assisted suicide can have different implications as the act differs from doctor-administered active euthanasia. In assisted suicide, a doctor supplies the lethal dose to the patient, but the patient takes the lethal dose themselves.¹⁸

3.1.3 Passive Euthanasia

Passive euthanasia is a contested term, of which the definition is not entirely agreed upon among researchers. The definition provided by James Rachels in 1975 is used in this study. According to Rachels, withholding and withdrawal of treatment is understood as passive euthanasia and the means that are entailed in active euthanasia are not understood as passive euthanasia. Rachel’s definition is used since it is a simple yet effective way of presenting passive euthanasia and I believe it is quite accurate.¹⁹ Also, Alanazi and Alanzi support this further by writing that “an example of passive euthanasia is simply letting a patient die without providing necessary treatment to save or prolong that patient’s life”.²⁰

3.1.4 Will Expressed in Advance to Refuse Life-sustaining Treatment, or ‘Living Will’

Meaning ‘an advance decision’ to refuse life-sustaining treatment, or ‘a living will’²¹. In many countries, one can make a will to refuse life-sustaining treatments in advance, this means that doctors must abstain from giving the treatments listed in the will, even if they are life-sustaining. One can notice that it is very close to the definition of passive euthanasia but with minor differences. The main difference is that the will is given in advance and usually in writing. Passive euthanasia could be seen as an umbrella term for the will in advance, as the similarities are significant but for the sake of wider research possibilities, they are kept separate. One could also argue that ‘a living will’ is not part of the euthanasia discussion at all, but I believe it is important to bring it into the research and comparison, as it still is in essence, letting a patient die. The will expressed in advance to refuse life-sustaining treatment could be seen as a milder version of passive euthanasia and the mildest version of euthanasia overall.

¹⁸ WMA Declaration on Euthanasia and Physician-assisted Suicide

¹⁹ Rachels, 1975, pp 78-80

²⁰ Alanazi, Alanzi, 2015, pp. 1

²¹ UK National Health Service, *Advance decision to refuse treatment (living will)*

3.2 Characteristics of The Legal Systems

The Czech legal system follows continental tradition and belongs to the Germanic legal culture. Its key characteristics include codification of major areas of law and procedure (e.g. civil and criminal code), hierarchical system of legal sources and recognition of only written law.²² The Czech legal system is based on three instances. District courts (*okresní soudy*) are the first instance to generally handle all disputes. Some disputes fall under the regional courts (*krajské soudy*) at first instance. If one decides to appeal a first-instance court's decision, it will be handled by a higher court. The last instance one can appeal to is the Supreme Court (*Nejvyšší soud*) and its decision is final.²³

The Dutch legal system, originally based on the French legal family, has been moving towards the German legal family for the past few centuries. The Netherlands has codified its civil and criminal law in codifications. The district court (*Rechtbank*) handles civil, criminal, commercial and administrative cases in the first instance. The second instance is called the Court of Appeal (*the Gerechtshof*), which handles appeals of the district courts. The final instance is called the Supreme Court (*Hoge Raad der Nederlanden*), which is the highest court in the Netherlands.²⁴ The Dutch case law provides interpretations of the written law, which further directs the future interpretations of the law.²⁵

The Finnish legal system is usually attributed to the German legal family with its own Nordic attributes. The Finnish system does not have modern civil law codifications, but legislation is still the primary source of law, similar to the Continental European Tradition. The district court (*Käräjäoikeus*) is the first instance that handles civil, commercial, and criminal cases. The second instance that mainly handles appeals of the district court's decisions is *Hovioikeus*. The final instance, the Supreme Court (*Korkein oikeus*) and its legal practice rules on important points of law, which have significance for the future interpretations of the law.²⁶

All three legal systems use written law as their main legislative source either through larger codifications or written legislation in general. All the systems are based on Germanic law but

²² Bobek, 2018

²³ Jan M et al., 2023, Czech Republic, pp. 502-506

²⁴ Jan M et al., 2023, Netherlands, The, pp. 82-86

²⁵ Dutch Law Institute: An English guide to contract law, employment law and legal proceedings in the Netherlands.

²⁶ Jan M et al., 2023, Finland, pp. 130-135

with their specialities. The structures of the courts are similar to each other, having three steps, from district courts to supreme courts, which handle civil and criminal cases. The case law of the countries is not binding, but merely interpretative on the contents of the written law. I believe it is suitable to say that the legal systems are culturally adjacent.

4 Theoretical Legal Framework

4.1 Current Laws Legislating Euthanasia in the Netherlands, Finland and the Czech Republic

In the following sub-chapters, I will establish the legal framework of the countries used to control active euthanasia (doctor-submitted), assisted suicide, passive euthanasia and the living will.

4.1.1 The Netherlands

First, it is important to note, that in the year 2002, the Netherlands became the first country in the world to legalize active euthanasia through the Termination of Life on Request and Assisted Suicide (Review Procedures) Act, also known as the Euthanasia Act.²⁷

In the case of **active euthanasia** and **assisted suicide**, the Dutch CC Article 293, reads:

“1) A person who terminates the life of another person at that other person's express and earnest request is liable to a term of imprisonment of not more than twelve years or a fine of the fifth category.

2) The offence referred to in the first paragraph shall not be punishable if it has been committed by a physician who has met the requirements of due care as referred to in Article 2 of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act and who informs the municipal autopsist of this in accordance with Article 7 second paragraph of the Burial and Cremation Act.”²⁸

Article 293 (2) refers to the requirements of due care, which are listed in the Euthanasia Act Article 2:

The physician:

*“a. holds the conviction that the request by the patient was voluntary and well-considered,
b. holds the conviction that the patient's suffering was lasting and unbearable,
c. has informed the patient about the situation he was in and about his prospects,
d. and the patient hold the conviction that there was no other reasonable solution for the*

²⁷ T. Smies, 2003, pp. 1

²⁸ World Federation Right to Die Societies: Termination of Life on Request and Assisted Suicide (Review Procedures) Act.

situation he was in,

e. has consulted at least one other, independent physician who has seen the patient and has given his written opinion on the requirements of due care, referred to in parts a – d, and f. has terminated a life or assisted in a suicide with due care.”²⁹

If a doctor has terminated a life as described in CC Art. 293 while following the requirements of the Euthanasia Act Article 2, the act will not be punishable. Notably, one can conclude that euthanasia and assisted suicide never became totally legal. Euthanasia and assisted suicide remain criminal offences in the CC, but with the exception of following the due care requirements, the act can be lawful.

In the case of **passive euthanasia**, the right to refuse life-sustaining treatment is legislated under the Law on Contracts for Medical Treatment Article 450.1.

Article 450.1 states that *“The patient’s consent is required for procedures to implement a treatment agreement.”* This means that if the patient doesn’t give consent to life-sustaining treatment, it must be stopped.

In the case of **a will to refuse life-sustaining treatment in advance**, Article 450.3 states:

“In the event that a patient of sixteen years or older cannot be considered capable of a reasonable assessment of his interests in this regard, the care provider and a person referred to in paragraphs 2 or 3 of Article 465 will assess the apparent views of the patient, expressed in written form when he was still capable of said reasonable assessment and involving a refusal of consent as referred to in paragraph 1, is complied with. The care provider may deviate from this if he considers there to be valid reasons for doing so.”

The Netherlands allows all forms of euthanasia, with the limitations of due-care requirements in the case of active euthanasia. Notably, there are multiple simultaneous requirements to receiving active euthanasia, and they all need to be fulfilled.

4.1.2 Finland

In Finland, **active euthanasia** is legislated under the Criminal Code (*rikoslaki 39/1889*) chapter 21 sections 1 and 3. According to the Finnish CC 21:1 titled “Manslaughter” (*tappo*):

²⁹ Termination of Life on Request and Assisted Suicide (Review Procedures) Act. Article 2 paragraph 1.

“A person who kills another person shall be sentenced for manslaughter to imprisonment for a fixed term of at least eight years. An attempt is punishable.”³⁰

According to the Finnish CC 21:3 titled “Killing” (*surma*):

“If, taking into consideration the exceptional circumstances of the offence, the motives of the perpetrator or the other circumstances connected with the offence, the manslaughter was committed under mitigating circumstances when assessed as a whole, the perpetrator shall be sentenced for killing to imprisonment for at least four and at most ten years.”³¹

When analysing the constituent elements of the 21:1 Manslaughter it is simply presented as “a person who kills another person”, and not elaborated further, this means, that the requirements of the crime are fulfilled, when another person intentionally causes the death of another person with the intent to kill that person. The section doesn’t consider how the act of killing was done or how the perpetrator themselves sees the crime or how long the victim had left to live.³² The section is used for all kinds of killing-related crimes, and active euthanasia can fulfil the requirements as it is after all intentional, active killing of another person.

CC 21:3 takes into consideration “the exceptional circumstances, motives of the perpetrator or other circumstances”. When the patient asks for euthanasia, it could be seen as a mitigating circumstance, but the lack of case law makes it hard to make actual conclusions on this.

Nuotio calls Finnish criminal law an elephant in a porcelain store in this issue because the lack of case law makes it hard to make assumptions on how the act of euthanasia would be judged in court.³³

In the case of **assisted suicide**, the legal framework is even more unclear, there is no mention of suicide in the Finnish CC, thus suicide is not illegal in Finland.³⁴ The CC chapter 5 sections 5 and 6 “Incitement” (*yllytys*) and “Abetting” (*avunanto*) also require the base crime to be punishable by the CC. If the base crime is not legislated in the CC, then usually incitement and abetting to the crime cannot be punishable.³⁵ This means that abetting to suicide is not punishable. Still, saying that assisting in suicide is legal in Finland is risky. This is because in 2021, a Northern-Karelia district court (*käräjäoikeus*) sentenced a caregiver for assisting their

³⁰ Finnish Criminal Code (*rikoslaki*) 39/1889 Section 21:1

³¹ Finnish Criminal Code (*rikoslaki*) 39/1889 Section 21:3

³² Nuotio, 2014, p 282

³³ *ibid.*

³⁴ StVM 4/2018 vp

³⁵ Nuotio, 2014 pp. 279

partner in suicide by supplying them with a lot of alcohol, medicine and insulin. The partner died following this, and the caregiver was sentenced to 4 years and 6 months of jail for killing (as in CC 21:3) their partner under mitigating circumstances, even though the caregiver directly didn't administer any lethal dose to the partner. According to the court, the caregiver had a contractual legal obligation to prevent death. Failing to do so, the court ruled the act as active killing, even though the partner had expressed her wish to kill herself.³⁶ The silence of the written law makes assisting in suicide a Pandora's box, you have no idea what is inside. The court's sentencing is not binding in the sense of law application in the future, but the unpredictability and silence of the law almost makes assisted suicide de facto illegal in the eyes of a citizen.

In the case of **passive euthanasia**, Finnish law is clearer. It is legislated under the Act on the Status and Rights of Patients (Patient Act) (*Laki potilaan asemasta ja oikeuksista*). According to the Act's section 6, patients have a right to self-determination, which includes patients' right to refuse any treatment that has already been started.³⁷

The right to self-determination also includes a right to express an advance decision to refuse treatment. According to the Patient Act's section 6, the **will expressed in advance** is considered when the patient is unable to tell the medical staff how they want to be treated medically. The patient's representative (legal representative or a close relative) must be consulted when considering the patient's treatments and the representative must abide by the patient's will when consulted.³⁸ The patient's will and the refusal of any treatment written in the will is binding to the medical staff treating the patient.³⁹

4.1.3 The Czech Republic

In the Czech Republic, cases of active euthanasia and assisted suicide are legislated under the Criminal Code (*trestní zákoník*).

In the case of **active euthanasia**, Section 140 Murder (*Vražda*) states that

³⁶ Yle.fi, 2021

³⁷ Patient Act (*Laki potilaan asemasta ja oikeuksista*) (785/1992) 6 mom. 1

³⁸ Patient Act (*Laki potilaan asemasta ja oikeuksista*) (785/1992) 6 mom. 3

³⁹ Duodecim terveyskirjasto, Hoitotahto, 2022

“Whoever intentionally kills another person shall be sentenced to imprisonment for ten to eighteen years.”

Section 141 Manslaughter (*Zabití*) states that

“Whoever intentionally kills another person in strong derangement caused by fear, shock, confusion or another excusable mental motion or as a result of previous condemnable conduct of the aggrieved person, shall be sentenced to imprisonment for three to ten years.”

If a doctor kills a patient, e.g. giving a lethal injection, even at the patient’s express and clear wish, the act could be assessed as murder under Article 140 or manslaughter under Article 141.⁴⁰ As the requirements for the act to be considered manslaughter are centred around mental motion or previous condemnable conduct of the aggrieved person, it would be unlikely that the act of doctor-administered euthanasia would be classified as manslaughter. This is further supported by a case where a nurse was prosecuted for murder when she tried to hasten the deaths of her patients at their request by giving patients higher amounts of drugs than normal.⁴¹

In the case of **assisted suicide**, the Czech CC section 144, titled “Accessory to suicide” (*Účast na sebevraždě*) Sub-section 1 states that *“Whoever encourages another person to commit suicide or assists another person in committing suicide, shall be sentenced, if at least an attempted suicide occurred, to imprisonment for up to three years”*. This section expresses that assisting in a suicide or in an attempted suicide is penalized. Section 144 is clear on assisted suicide specifically and the act is strictly forbidden and penalized.⁴²

When examining Czech law around **passive euthanasia** there are two distinctions to make, whether the refusal of life-sustaining treatment was made before or after starting the medical treatment. When considering withdrawing or withholding life-sustaining (or any) treatment in the Czech Republic, there is a general rule: if there is a requirement of consent from the patient, no treatment may be provided before consent is received. In Czech law, a ‘competent’ patient can refuse any medical treatment, even if the refusal will lead to death.⁴³ However, once treatment has begun, the Health Services Act steps into force. According to the

⁴⁰ Act No. 40/2009 Coll., Criminal Code” [cze] Section 140

⁴¹ Radio Prague International, 2014

⁴² Act No. 40/2009 Coll., Criminal Code” [cze] Section 144

⁴³ Peterkova, 2011, pp. 174

explanatory memorandum of the HSA, withdrawal of life support is seen as active termination of the patient's life.⁴⁴

According to the HSA section 34 sub-section 4:

“The patient may withdraw his/her consent to the provision of health services. The withdrawal of consent shall not be effective if the medical procedure has already begun, the interruption of which may cause serious harm to the patient or endanger his/her life.”

According to the HSA section 36 sub-section 5 (b):

“Previously expressed wish cannot be respected if such medical procedures were initiated at the time when the provider had not had available a previously expressed wish, the interruption of which would lead to an active cause of death.”

This, in reverse, can be interpreted in a way that if a **previously expressed wish** is available for the medical staff in a timely manner, they must follow it and not initiate life-sustaining medical procedures. After the medical procedures have been started, and then later the previously expressed wish is brought to the medical staff's attention, the treatments cannot be interrupted anymore, as the interruption could cause the death of the patient.

4.2 Current Laws Visualized

Table 1: Basic solutions controlling euthanasia by colour codes.

(Red: unlawful, yellow: unclear and green: lawful)

⁴⁴ PARLAMENT ČESKÉ REPUBLIKY, 2011

Table 1, Legislative Choices of the Three Countries

	Finland	The Czech Republic	The Netherlands
Active euthanasia, e.g. lethal injection given by a physician	Unlawful, considered active intentional killing in the CC sections 21:1 Manslaughter (<i>tappo</i>) and 21:3 Killing (<i>surma</i>). Sentences: At least 8 years (21:1) and 4-10 years (21:3)	Unlawful, considered active killing in the CC Sections 140 Murder (or 141 Manslaughter). Sentence: 10-18 years (or 3-10 years)	Lawful under the CC Art. 293 (2) if following requirements of the Euthanasia Act.
Assisted suicide	Unclear, has been sentenced as killing (21:3 <i>surma</i>) under the CC in a district court. Sentence: 4 years 6 months	Unlawful, considered “Accessory to Suicide” (Účast na sebevraždě) under the CC Section 144. Sentence: up to 3 years	Lawful under the CC Art. 293 (2) if following requirements of the Euthanasia Act.
Passive euthanasia	Lawful, patient has a right to refuse life-sustaining treatment according to the Act on the Status and Rights of a Patient (Patient Act) 6 §.	Unlawful, considered active killing in the Czech HSA 34 (4) Section 140 Murder (or 141 Manslaughter), Sentence: 10-18 years (or 3-10 years)	Lawful, right to refuse treatment under Law on Contracts for Medical Treatment Article 450.1.
Will expressed in advance to refuse life-sustaining treated	Lawful, patient has a right to refuse life-sustaining treatment in advance according to the Act on the Status and Rights of a patient 6 §.	Lawful, patient has a right to refuse life-sustaining treatment in advance by “previously expressed wish” if the treatment hasn’t been initiated yet under HSA 36 (5b)	Lawful, right to refuse treatment under Law on Contracts for Medical Treatment Article 450.3.

4.2.1 The Current Written Laws as a Basis for Comparing

The table (*Table 1*) provides a visual collection of data, which is to be used in the legal comparison between the countries. Main task of the table is to provide general theoretical and conceptual context, while keeping an eye whether the comparison between the countries is possible at all. It seems that the countries use similar legislative approaches to solve euthanasia issue by differing measures. Criminal code provisions regulate active euthanasia and assisted suicide, while medically related provisions are used to regulate passive euthanasia. I believe this adds to the basis enough to consider the comparing with the selected countries possible and viable.

However, the table provides only a written law-basis for comparison, and as the comparison progresses, phenomena outside written law must be considered for context, when trying to explain the differences and similarities in micro-level research according to Zweigert and Kötz.⁴⁶

⁴⁵ See 4.1.1-4.1.3

⁴⁶ Husa, 2003, pp. 429

5 The Comparison

5.1 Doctor-administered Lethal Dose

Finland and the Czech Republic deem active, doctor-administered euthanasia to be unlawful and as active killing. Main similarity between all the three countries is that they all govern active euthanasia under their criminal codes. The measures between Finland and the Czech Republic aim for similar results with similar tools, while the Netherlands aims for different results with similar tools.

When examining the functions of the laws governing euthanasia, it is noted that Finland and the Czech Republic use a general criminal code provision to forbid the active euthanasia act and treat the act as manslaughter or killing (fi), or murder or manslaughter (cze). The texts of the laws, however, do not specify euthanasia in any form. They are provisions used for all killing-related crimes. This could be explained with the two countries' stances on euthanasia: maybe they see active euthanasia as nothing else but active killing that doesn't need to be legislated differently from regular killing. The provisions' function of also criminalising euthanasia is not implied in writing, and they serve many more functions than only legislate euthanasia due to their generalist nature. The provisions, however, are effective in dealing with breaches of the law effectively, issuing jail sentences to active euthanasia acts.

In the Netherlands, active euthanasia is deemed unlawful under CC, unless it is performed with the Euthanasia Act's Art. 2 due-care requirements. If the requirements are followed, the act will not be punished, so the act is lawful in that specific case. The Dutch law's function in governing active euthanasia (both doctor-submitted and assisted suicide) is clear, and anyone who reads the CC Article 293 (2) can understand that active euthanasia is legal when following the due care requirements. The function of the provision is to create the framework of how euthanasia can be lawful, but also to control cases where due-care requirements are not followed by issuing jail sentences up to 12 years.

Similarly to the Netherlands, Finland and the Czech Republic could insert a similar subsection to their criminal codes as the Netherlands, excluding active euthanasia from the killing-related provisions if the culprit acted within the borders of their respective 'due-care' requirements.

In the case of active euthanasia, one must make the conclusion, that the Netherlands reaches the function of controlling euthanasia and dealing with conflicts, the best.

5.2 Assisted Suicide

In the case of assisted suicide, the countries have remarkably different approaches to the issue. Finland's stance is unclear on the issue, as assisted suicide is not forbidden in the written law, but a caretaker has received a sentence for killing their partner in a district court, as stated before.⁴⁷ Having a ruling like this, even though not binding, makes it natural for individuals to conclude that assisted suicide, is de facto illegal, even if the law is silent. In the case of the Czech Republic the law is worded clearly on the issue, with Section 144 titled "Accessory to Suicide" forbids encouraging to suicide and assisting in suicide clearly. In the Netherlands, the same provision, CC Art. 293 is used to govern assisted suicide and the requirements laid out by the CC Art 293 (2) are the same as in the case of active doctor-administered euthanasia: the requirements of Euthanasia Act's 2 article need to be followed or the act of assisted suicide is considered unlawful under CC Art 293.

From a functional standpoint, the function of the Czech Section 144 is clear, its only function is to forbid assisted suicide-related phenomena. The Dutch Art. 293 legislates both active euthanasia and assisted suicide and the function of the law is focused only on those issues. In the case of Finland, there is a great difficulty in reviewing the function of the law, as there is no written law. Due to this, Finland performs the worst in the issue of assisted suicide. By staying quiet on the issue, Finland leaves space for legislation, that would allow assisted suicide, which can be seen as a positive indicator in absorbing the Dutch euthanasia legislation but a negative indicator for individuals wanting to know the control of assisted suicide.

5.3 Passive Euthanasia

Passive euthanasia offers more variance in the countries' legislative choices. Finland has a clear provision, Patient Act 6 §, that allows patients to use their self-determination to refuse or interrupt life-sustaining treatments. The Czech approach in HSA 34 (4) differs from this approach widely, where if a patient's request to interrupt life-sustaining treatments would endanger their life, the request cannot be fulfilled, leaving patients effectively trapped in the

⁴⁷ Yle.fi, 2021

situation as interruption of the treatment would be seen as active killing.⁴⁸ In the Netherlands, patients have a right to refuse life-sustaining treatment under Law on Contracts for Medical Treatment Article 450.1, a similar approach to that of Finland.

From a functional perspective, the laws surrounding passive euthanasia fulfill their function of legislating passive euthanasia generally well. The Patient Act (FI) and the Law on Contracts for Medical Treatment (NL) allow legally competent patients to refuse any treatments, even if life-sustaining, even though the laws do not imply 'life-sustaining' in any way. Anyhow, the laws do not forbid refusal of life-sustaining treatment, like the Czech HSA does.

Overall, all the laws tackle their function of legislating passive euthanasia with accuracy and do not leave much room for interpretation. All three countries use medical-related provisions to legislate passive euthanasia. Finland and the Netherlands allow passive euthanasia, while the Czech Republic does not. This could be interpreted as Finland having a stronger right for self-determination for patients than the same right in the Czech Republic.

5.4 Will Expressed in Advance to Refuse Life-sustaining Treatment

In the case of a will expressed in advance to refuse life-sustaining treatment, the countries have more similarities than in the previous instances. All the three countries allow some form of refusal of life-sustaining treatment if made in advance, with the Czech model being the strictest once again, where the refusal of life-sustaining treatment is only effective if the medical staff receives the will before initiating treatments. If life-sustaining treatment is initiated, the will declining life-sustaining treatment is not effective anymore, as it would be seen as active killing, similar to the case of passive euthanasia.

Again, Finland and the Netherlands have the same approach with each other, as was the case in passive euthanasia. They use the same provisions as in the case of passive euthanasia. They also take the will expressed in advance into account retroactively, while consulting a representative in the case of Finland. This makes sense because passive euthanasia is legal in both Finland and the Netherlands. In my opinion it is only natural that life-sustaining treatment will be treated the same way, where the patient's self-determination is the key to any life-sustaining treatment.

⁴⁸ See 4.1.3

Functionally, the three countries' laws control 'will expressed in advance' in similar manners. They all use the approach of medical-related provisions to legislate it, while the desired solution is different in the case of the Czech Republic. Notably, the 'previously expressed wish' of the Czech HSA is the first instance, where the Czech system allows some form of 'letting die' in their healthcare system.

All three countries' legislative choices on the will institution fulfil their function with similar accuracy, and it is hard to pinpoint the winner of the comparison on this specific issue.

5.5 The Best System

If the function of law is to provide a framework that controls social behaviour and deals with conflicts of the law, we can compare which system fulfils this function the best overall with these parameters. The Dutch system seems to go to great lengths when controlling all forms of euthanasia, making it easy for individuals to know what social behaviour is controlled and how, including the conflict situations of the law, leaving room for very little interpretation. The Czech system also reaches its desired goals with accuracy, leaving only a little interpretation room in the case of active euthanasia, as it is not mentioned in the law per se. The Finnish system leaves a similar interpretation room as the Czech system in active euthanasia, but the Finnish system shows a serious lack in the case of assisted suicide, where there's a gap in legislation considering the issue. One must conclude that the Netherlands manages to control euthanasia with such precision that it leaves minimal room for interpretation. This could be quite naturally explained by the maturity of their euthanasia legislation, the framework needs to address situations that make euthanasia possible and control the situations where the legislation is not followed properly. One must conclude that the Netherlands is the best functioning system, followed by the Czech Republic and lastly, Finland.

6 The Better System to Adopt the Dutch Euthanasia Legislation

When making the final assessment to answer the second research question of ‘Which system, Finland or the Czech Republic is in a closer state to absorb the Dutch euthanasia legislation?’, more than legislative material needs to be considered to see the whole picture, even though legislative material provides an accurate review of the current legal status of euthanasia. The letter of law does not imply why the Czech Republic and Finland reject euthanasia, but we can draw further information from the parliamentary hearings and professional opinions.

6.1 Professional Opinions and Arguments, and Citizens’ Support

In Finland, the Finnish Medical Association (FMA) (*Lääkäriliitto*) and the Evangelical Lutheran Church are opposed to legalizing active euthanasia.⁴⁹ FMA draws their argument from The Act on Healthcare Professionals (*Laki terveydenhuollon ammattihenkilöistä (559/1994)*) section 15 about the ethical obligations of a doctor. The section states that “a doctor’s task is to maintain and promote health, prevent diseases, and cure the sick and alleviate their suffering.⁵⁰” FMA views active euthanasia as conflicting with section 15. According to them, no doctor should be required to perform euthanasia. Curiously, even the Finnish Evangelical Lutheran Church also uses the argument that palliative treatments should be further developed instead of euthanasia legalization.⁵¹ One could expect a more religiously loaded answer from a church.

The legalization of active euthanasia has been the subject of a citizen’s initiative in Finland in 2016-2017. It was proposed that euthanasia would be allowed in situations, where the treatment of a terminally ill patient is not sufficient to alleviate their suffering anymore. The patient would have had to be a legally competent adult to submit a considered and voluntary request for euthanasia.⁵² The initiative went through the lawmaking process, and the Social Affairs and Health Committee (*sosiaali- ja terveysvaliokunta*) of the parliament was heard. The committee consulted the experts in medical and theological fields and took an opposing stance towards legalization, and later the initiative was rejected in parliament. The committee expressed that Finland’s palliative and terminal care were in a poor state and resources for

⁴⁹ Lääkäriliitto, Eutanasia ja avustettu itsemurha

⁵⁰ Laki terveydenhuollon ammattihenkilöistä (559/1994) 15 §

⁵¹ Evankelis-luterilainen kirkko, Eutanasia

⁵² Kansalaisaloite, ‘Eutanasia-aloite hyvän kuoleman puolesta’

training of medical staff had to be added.⁵³ Currently, there is a new 2023 citizen's initiative 'Eutanasielaki säädettävä Suomeen' considering the legalization of euthanasia going into the parliament. In the citizens' initiative, euthanasia is considered as a last resort, where no other measure alleviates the suffering of a patient. The requirements for euthanasia listed in the initiative are close to those of the Netherlands' due care requirement in Article 2 of the Euthanasia Act.⁵⁴ It will be seen in the future, whether this initiative will have more effect than the one before it.

In the Czech Republic, there have been three different bills considering the legalization of euthanasia: the 2008 Death with Dignity Bill, the 2016 bill, and the 2020 bill. I will not go into detail about what was described in detail in every one of them, but I will show which arguments were the reasons why the bills were turned down in the parliaments. The 2008 bill, similarly to the Netherlands' legislation required similar conditions to those of the Dutch Euthanasia Act Article 2.⁵⁵ In the Senate meeting, concerns regarding the poor quality of palliative care in the Czech Republic were raised, and the development of palliative care should take precedence over euthanasia legalization. Arguments of potential abuse of euthanasia, its irreversible nature and the fundamental constitutional right of life were laid out by the Senate.⁵⁶ The 2016 bill largely mirrored the 2008 Bill. The Czech government criticized the 2016 bill for lacking clarity on the procedure for withdrawing a request for dignified death and ambiguity regarding their linkage, permanence, member appointment, and removal processes.⁵⁷ The 2020 bill like the ones before it, focused on palliative care, end-of-life decision-making, and euthanasia. The requirements for euthanasia in this bill once again reflect the requirements of due care of the Euthanasia Act Article 2 of the Netherlands, but this time also the revocation process of euthanasia request was considered.⁵⁸ Once again, however, the government disapproved of the bill, criticising the bill for merging of palliative care, assisted suicide and euthanasia, which serve different purposes and are governed by

⁵³ StVM 4/2018 vp

⁵⁴ Kansalaisaloite 'Eutanasielaki saatava Suomeen'

⁵⁵ Death with Dignity Act - Senate Bill" [cze], Senate of the Parliament of the Czech Republic, 2008,

⁵⁶ Record of the 1st day of the 16th meeting" [cze], Senate of the Parliament of the Czech Republic

⁵⁷ Assembly Document 820/1, Opinion of the Government on Parliamentary Question 820/0" [cze], 2016

⁵⁸ PŘEDLOŽILI JSME ZÁKON O EUTANAZII A PALIATIVNÍ PÉČI. KAŽDÝ ČLOVĚK MUSÍ MÍT KONEČNĚ PŘÁVO VOLBY

separate laws. Ultimately, the bill's consideration ended with the term of the Chamber of Deputies.⁵⁹

Czech lawyer Tomáš Havelec and theology professor Jan Polák say that “All attempts to legalize euthanasia in the Czech Republic can be seen as an attempt to introduce a foreign institution into Czech law”. They argue that the theory of fundamental rights in the Czech Republic has long been shaped by the Judeo-Christian belief in the sanctity of human life. Introducing the right to die would be a significant departure from this tradition, as it lacks historical support or justification in Czech legislation. They consider the 2020 bill to be “extremely inappropriate”.⁶⁰ A Czech medical ethics specialist and a priest, Marek Orko Vácha, said in an interview that “In the Czech Republic, there is no political will to deal with it (euthanasia).”⁶¹

In Finland, a survey in 2016 by Yle and Taloustutkimus titled ‘Do you accept euthanasia – i.e. should a person have the right to receive euthanasia’ among citizens was conducted. According to it, 73 % of the citizens accepted euthanasia.⁶² A similar survey by Tampere University and the FMA was conducted, where doctors had to answer the proposition ‘Euthanasia should be legal in Finland’. 55 % of doctors were fully or partially in support of euthanasia.⁶³

In the Czech Republic a survey study in 2023 by the Public Opinion Research Center of the Czech Academy of Sciences (CVVM) was conducted, where, similarly to Finland, 73 % of citizens supported euthanasia.⁶⁴ A survey of doctors’ support of euthanasia is not available in the Czech Republic, but a survey of opinions among Czech university students was made in 2015, where a Likert-type scale was used (5: strongly agree, 3: neutral 1: strongly disagree) with 31 euthanasia related questions. Czech medicine students had a moderately positive opinion of euthanasia, attaining a ~3,53 medium score.⁶⁵

⁵⁹ The Government's position on the proposal by the MPs Věra Procházková, Lukáš Barton and others to issue a law on palliative care, end of-life decision-making and euthanasia [cze]

⁶⁰ Havelec, Polák, 2023/2 pp. 171-189

⁶¹ iROZHLAS, 2021

⁶² Yle.fi, 2016

⁶³ Lääkäriliitto, 2024

⁶⁴ BRNO Daily, 2023

⁶⁵ Vlčková, et al., 2015, pp. 200

According to a survey study published in *BMC Med Ethics* (2019), in 2016, 88 % of the Dutch public supported the 2002 euthanasia law. During the same year, 57 % of Dutch doctors had performed euthanasia at least once.⁶⁶

6.2 Implications and Conclusions

Both Finland and the Czech Republic in their parliamentary hearings and handlings regarding euthanasia run into the argument of palliative care's poor quality. Palliative care and its poor quality seem like a scapegoat that can be blamed when euthanasia is mentioned and then end the discussion. In the Czech Republic, the parliament has also found fault with procedural factors in the bills presented to them, but the constitutional right to life as a basic right has been brought up in the discussions too. There seems to be opposition in both countries among the professional community and the church. The parliamentary arguments against euthanasia seem to be rooted in the same subjects in both countries. Meanwhile, parliaments reject euthanasia, majority of citizens support the legalization of euthanasia in both countries. The support levels of both countries are still far away from the numbers of the Netherlands, where an overwhelming majority, almost 90 % of the public, supports euthanasia.

One must ask, what makes the Netherlands so different on this issue from most other European countries that they could enact euthanasia laws? The answer lies in the original explanatory statement of the Dutch CC Article 293. According to it, consent-based act of killing upon request was no longer punished as an assault on another person's life, but rather as a violation of the respect of human life in general. The consent would not remove the liability, but the punishment should be considerably lighter than that of a murder.⁶⁷ This would lead to de facto legalization of euthanasia in the Netherlands during the 20th century even before the enactment of the Euthanasia Act through jurisprudence and prosecutorial policy.⁶⁸

Question stands, whether the legalization of euthanasia could happen the same way in the Czech Republic and Finland. The explanatory statements of the criminal code sections in Finland and the Czech Republic do not offer the same kind of leeway as the Dutch statement did. The consent from the patient doesn't alter the punishment for killing upon request in either of the two countries. It would be unlikely to see the legalization of euthanasia through

⁶⁶ Evenblij et al., 2019, pp. 2

⁶⁷ Griffiths et al., 2008, p. 308

⁶⁸ *The Legalization of Euthanasia in the Netherlands*, 2003, Jonathan T. Smies, pp. 1

jurisprudence in Finland or the Czech Republic, so altering the written law would be a more suitable way to enact euthanasia legislation. The measure to include euthanasia in the systems could be similar to the legislative choice of the Netherlands, including an exception to the criminal code provisions that control killing-related crimes.

Evaluating the situation, a conclusion must be made that there seems to be no fundamental force blocking the importation of Dutch euthanasia legislation into Finnish or Czech systems. It would require changing the provisions of the criminal codes of Finland and the Czech Republic in the case of active euthanasia and changing health care provisions of HSA in the Czech Republic in the case of passive euthanasia. The differences in the euthanasia legislation between the countries can be explained by differing views on euthanasia itself. In Finland, one could argue that patient's autonomy is more extensive than in the Czech Republic. The key differences between these countries' patient's autonomies are found in passive euthanasia legislation.

While the parliamentary and professional data is similar between Finland and the Czech Republic, the Czech arguments seem to draw more from the ethical and religious side than those of Finland. Finland's main arguments are mainly focused on palliative care and not as many religious arguments are used in debating euthanasia as in the Czech Republic.

When citizens' support in both countries is on the same level, the need to draw conclusions from legislative data grows. Finland allows passive euthanasia: the withdrawal of life-sustaining treatment, even if life-threatening while the Czech Republic does not. Finland is more accepting towards 'letting die' than the Czech Republic. Furthermore, the issue of assisted suicide is unclear in Finland, leading to unpredictable situations, but it can also be analysed as a positive signal towards possible adoption, as it leaves more room for legislation, while the Czech Republic strictly forbids assisted suicide in their criminal code.

One final remark to make is that passive euthanasia can be seen as a particularly cruel way to die. According to Rachels, through his use of quite gruesome examples, passive euthanasia is a slow and painful way to die, while active euthanasia is quick and painless.⁶⁹ Withdrawal or withholding of life-sustaining treatment in the cases of insufferable and untreatable pain can cause the patient to suffer for days or even longer before they perish. When Finland allows passive euthanasia but rejects active euthanasia, they allow this suffering to happen. This

⁶⁹ Rachels, James, *Active and Passive Euthanasia*, 1975, pp. 78

could be seen as an indicator that there is even more pressure to accept active euthanasia in Finland as time goes on. Family relatives are forced to face their loved ones suffering on a deathbed when they have already chosen death and there is no quick way out.

Currently, I believe Finland is closer than the Czech Republic to being able to absorb the Dutch euthanasia legislation. I must stress, that this statement lacks real authority and is assumptive by nature. It is possible that either Finland or the Czech Republic will be the first to allow active euthanasia, and it is in the hands of parliaments in the end.