

EU court finds Swiss assisted-suicide laws vague (Update)

May 14 2013, by John Heilprin

An elderly Swiss woman who would rather end her life now than decline further in health found sympathy Tuesday from the European Court of Human Rights, which called on the Swiss to clarify their laws on so-called passive assisted suicide.

The Strasbourg, France-based court said Switzerland must specify whether its laws are meant to include people not suffering from terminal illnesses and, if so, spell out the conditions under which they can end their lives.

Alda Gross, a woman in her early 80s who lives outside Zurich, appealed to the court after she couldn't find a doctor to prescribe her a lethal dose of drugs and couldn't force Swiss authorities to order a doctor to grant her wish. An assisted suicide group also had advised her it would be difficult to find a doctor to give her a prescription because her illness wasn't terminal.

While she didn't suffer from any clinical illness, the court said, Gross argued that she shouldn't have to keep suffering from the decline of her physical and mental faculties. According to court documents, she attempted suicide and was hospitalized in 2005. Then she tried to get a lethal prescription of sodium pentobarbital through the assisted suicide group and by turning to the Zurich health board.

The vagueness of Swiss laws "concerning a particularly important aspect of her life was likely to have caused Ms. Gross a considerable degree of

anguish," the court found. And while Swiss laws allow for the possibility of obtaining a lethal dose of a drug on medical prescription, it added, those laws "did not provide sufficient guidelines ensuring clarity as to the extent of this right."

Bernhard Sutter, vice president of the Zurich-based group EXIT, which Gross had consulted for help, said Tuesday the court ruling for now would not change the fact that his group cannot help healthy people, only those with a hopeless clinical prognosis or who suffer from intolerable pain. But he welcomed the court's call for more legal clarity.

Passive assisted suicide has been legal in Switzerland since 1942; the law allows someone to give another person the means to kill themselves, provided the helper doesn't personally benefit from the death or aid in the actual act of death. Most people who avail themselves of the law are terminally ill, but some have cited depression or blindness for wanting to end their lives, and some are young but may have a permanent disability or severe, debilitating mental disorder.

Other countries such as the Netherlands and Belgium, and U.S. states such as Oregon and Washington, have passed laws allowing the incurably sick to consult a doctor who can speed their death, under special and tightly regulated circumstances. Switzerland's reputation as a relatively trouble-free place for suicide has led to what critics call "suicide tourism" by foreigners, pushing the boundaries of medical ethics and public opinion.

The court said it recognized the issue is a difficult one, but that more specific Swiss laws would help doctors make better informed decisions free of fear of litigation or bad publicity.

The Swiss government said in 2010 that sodium pentobarbital could be used in exceptional cases for severe psychological illness.

A year later, the Swiss government dropped plans to impose stricter rules regarding "passive assisted suicide." The government said the current rules strike a balance between protecting vulnerable individuals and safeguarding their right to self-determination, and new laws could infringe on people's personal freedoms.

Gross, who lives in a village on the shore of Lake Greifen in northern Switzerland, was turned down by the Zurich health board when she tried to force her doctors to prescribe her a lethal dose of sodium pentobarbital. The Swiss Federal Supreme Court in 2010 upheld the health board's decision.

Gross did not submit a claim for damages to the European court, which did not take a stand on whether she should have been given the lethal dose.

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