

Summary

The year: 2020.

Specialty / field of study (code and full name): 40.03.01-Law

Level of study: bachelor's degree.

Institute or Higher school: Law University.

Department of criminal law disciplines and forensic expertise

The subject of the final qualifying work: " Euthanasia as a form of murder: criminal law aspects".

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The relevance of the research topic. One of the most pronounced problems of our time is euthanasia. The need to study the problem of euthanasia is explained by the complex nature of this phenomenon, where the issues of life and death, freedom and the prohibition of a person's choice to die or continue life in the presence of an incurable disease and unbearable suffering are closely intertwined. At the same time, Russian legislation on this issue has not been improved since the ban was established in the absence of differentiation of criminal penalties and does not reflect the real picture against the background of changes in public opinion, taking into account the experience of foreign countries in legalizing euthanasia. The main problem is that, despite the fact that euthanasia is prohibited at the legislative level, the criminal code of the Russian Federation does not contain a special norm providing for punishment for euthanasia. The current judicial practice of convicting euthanasia perpetrators as simple murder does not take into account the specifics of this act and violates the fundamental principles of criminal law – humanism and justice. Moreover, under part 1 of article 105 of the criminal code of the Russian Federation, close relatives or acquaintances of a terminally ill person whose suffering they clearly care about are most often brought to criminal responsibility. Medical workers, based on the analysis of judicial statistics, avoid criminal liability for its Commission under part 1 of art. 105 of the criminal code, and are involved in other related crimes (articles 124, 125 of the criminal code).

Thus, there is an objective need for a more in-depth study of euthanasia as a complex social phenomenon, based on historical, philosophical, medical and biological aspects in order to determine its legal nature and criminal law assessment.

The purpose of the study is a comprehensive theoretical study of the analysis of Russian and foreign law to determine the legal nature of euthanasia, given the historical-philosophical, medical-biological, moral and ethical views and positions on this social problem, as well as in criminal-legal assessment of euthanasia as a socially dangerous act, comparative analysis of the causality and mechanism of euthanasia with existing criminal law for murder and other related crimes.

Tasks:

исследование study of the social and legal nature of euthanasia, based on historical and philosophical, medical and biological, moral and ethical aspects;

анализ analysis of the grounds and reasons for euthanasia in modern society;

анализ analysis of the features of legal regulation and criminal legal assessment of euthanasia in the Russian Federation;

- study of euthanasia from the point of view of its degree of public danger;

- investigation of cause-and-effect relationships and mechanism of euthanasia;

justification for the allocation of euthanasia as a separate privileged crime;
border delineation of euthanasia from the main elements of murder, the murder of a person who is in a helpless state, committed with special cruelty and for the purpose of using the organs or tissues of the victim, from other related elements of crimes.

Theoretical and practical significance of research consists in a comprehensive study of euthanasia as a social phenomenon, the analysis of problems of its legal regulation and criminal-legal assessment abroad and in Russia scientific approaches to the definition of euthanasia and the formulation of the author's approach to the issue of euthanasia; the definition of a special legal nature and the appropriate criminal-legal assessment of euthanasia based on the degree of its public danger, the causality and mechanism of the Commission; the allocation of euthanasia as a form of murder by reason of compassion; distinguishing euthanasia from other types of offences. The provisions and conclusions of the study can be used to improve the relevant sections of the theory of criminal law.

Results and recommendations of the study. The analysis, including criminal legislation, shows the following:

- in a number of countries there are separate articles on euthanasia, which is an independent privileged type of intentional causing of death, allows you to detail and specify the features of this crime;
- in a number of countries, compassionate homicide committed at the request of the victim is singled out separately, which is a separate privileged type of intentional infliction of death, and provides for a more lenient punishment than that imposed for simple or qualified types of homicide;
- in addition, those States that provide for a privileged type of murder committed at the request of the victim, as a rule, include in their criminal codes the elements of aiding and abetting suicide (article 127 of the criminal code of Bulgaria).

At the same time, in most countries of the world, including Russia, criminal and legal problems of euthanasia remain unresolved, it is equated to simple murder and carries increased sanctions from the state.

1. It should be noted that a single, generally accepted definition of euthanasia is still missing, since this phenomenon is complex and multifaceted.

2. legal regulation of euthanasia in Russia means the adoption of a legislative act regulating the grounds, conditions, and procedure for conducting euthanasia in specialized medical institutions. When preparing such a legislative act, it is necessary to proceed from the positive experience of foreign countries that have legalized euthanasia. At the same time, it is necessary to distinguish between the patient's right to euthanasia and the right to refuse treatment and other medical intervention. The issue of legalizing or banning euthanasia in Russia cannot be resolved without prior discussion in society (at a referendum and other forms of public discussion).

The conducted research allows us to state that the need to distinguish euthanasia as an independent privileged type of crime is due to the degree of its public danger, the peculiarities of cause-and-effect relationships and the mechanism of its Commission. This contributes to the implementation of the principles of justice and humanism, according to which the punishment and other criminal measures applied to the person who committed the crime correspond to the nature and degree of public danger of the crime, the circumstances of its Commission, and the identity of the perpetrator.

The conducted research allows us to conclude that until euthanasia is allowed by the Russian legislator, it is necessary to introduce a norm in the criminal code of the Russian Federation that includes an independent privileged crime - murder motivated by compassion.

Conclusions and arguments allowed us to determine the specific legal nature of euthanasia as a complex social phenomenon, to give the corresponding criminal legal assessment taking into account the degree of its public danger, to justify the independent selection of the preferred structure of a crime as a form of murder out of compassion, to distinguish from the main and qualifying formulations of murders and other related offences which caused death of man.