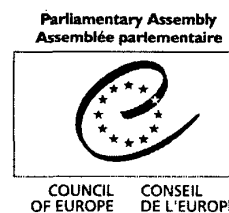


**Parliamentary Assembly**  
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**2005 ORDINARY SESSION**

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(Second part)

**REPORT**

Twelfth sitting

Wednesday 27 April 2005 at 10 a.m.

In this report:

1. Speeches in English are reported in full.
2. Speeches in other languages are summarised.
3. Speeches in German and Italian are reproduced in full in a separate document.
4. Corrections should be handed in at Room 1059A not later than 24 hours after the report has been circulated.

The contents page for this sitting is given at the end of the verbatim report.

*Mr van der Linden, President of the Assembly, took the Chair at 10 a.m.*

THE PRESIDENT. – The sitting is open.

### **1. Minutes of proceedings**

THE PRESIDENT. – The minutes of proceedings of the tenth sitting have been distributed.

Are the minutes agreed to?

*They are agreed to.*

The minutes of proceedings of the eleventh sitting have not yet been distributed, so their adoption is deferred to a later sitting.

### **2. Election of a judge to the European Court of Human Rights**

THE PRESIDENT. – This morning the orders of the day call for the election of a judge to the European Court of Human Rights in respect of Latvia.

The list of candidates and biographical notices are to be found in Document 10489.

A summary of the arrangements governing the election has been printed in the notice paper.

The voting will take place in the area behind the President's chair.

At 1.30 p.m. I shall announce the closing of the poll. As usual, counting will then take place under the supervision of two tellers.

I shall now draw by lot the names of the two tellers who will supervise the counting of the votes.

The names of Mr Ertsborn and Mr Kostenko have been drawn. They should go to Room 1087 at 1.30 p.m.

I now declare the ballot open.

### **3. Changes in the membership of committees**

THE PRESIDENT. – Our next business is to consider further changes proposed to the membership of committees. These are set out in the second addendum to document Commissions (2005) 4.

Are the proposed changes in the membership of the Assembly's committees agreed to?

*They are agreed to.*

### **4. Assistance to patients at the end of life**

THE PRESIDENT. – The next item of business this morning is the debate on the report on assistance to patients at the end of life presented by Mr Marty on behalf of the Social, Health and Family Affairs Committee, Document 10455, with an opinion on behalf of the Committee on Legal Affairs and Human Rights, Document 10495.

The list of speakers closed at 6.15 p.m. on Tuesday. Forty-five names are on the list, and seventy-one amendments have been tabled.

In order to finish by 1.30 p.m., we must interrupt the list of speakers at about 11.40 a.m. to allow time for the reply and the vote. In view of the very substantial number of amendments, I propose that speeches on amendments be limited to thirty seconds each and that I indicate from the podium for each amendment whether the committee is in favour, is against, or has reached no opinion. Are these arrangements agreed to?

*They are agreed to.*

I remind members that the Assembly agreed on Monday that speaking time in the debates today is limited to four minutes.

I call Mr Marty, rapporteur. You have eight minutes.

Mr MARTY (*Switzerland*) said that his committee had been charged with a far from easy task. The subject of euthanasia was emotive and, like abortion, challenged our life and death values. As science had progressed, medical advances were bringing the issue to the fore of society's consciousness. Developed countries had a noticeable fear of death which seemed to represent the ultimate threat to our consumer culture. Whilst we fear death we have no real culture of life. Six billion euros were spent on cosmetic products in Europe last year. In the same time span one million people died in Africa of curable diseases.

When the committee was first assigned the topic of euthanasia it realised the brief was too narrow. Euthanasia itself is a confusing word that seems to excite excessive and irrational reactions. So the committee had broadened the scope of its inquiry to consider all issues related to the end of life. The factual findings of the committee needed to be addressed. The legal position of patients was currently very weak. Patients should be entitled to proper information at the end of their lives and be given tangible decision-making powers. The rights of patients must be recognised. At the same time palliative care must be promoted and improved and proper suicide prevention policies should be implemented.

Public opinion on the issue was sensitive, although it was clearly the belief of most people that they should be able to decide how and when to end their life. It was noticeable that in hospitals death often occurred as a direct result of action taken in the interest of the patient. The French Health Minister had himself called for an end to this hypocrisy. A proper legal framework needed to be put in place. Some 86% of French people were in favour of being able to decide when life for them became medically unbearable.

However, the committee was not in favour of advocating direct, active euthanasia. The committee recognised that it would be difficult to find a solution to this problem for Europe as a whole bearing in mind the widely differing cultures the continent embraced. He pleaded with the Assembly not to turn their heads away from the reality of the problem and to address the issue in a rational manner.

THE PRESIDENT. – Thank you, Mr Marty. I call Mr McNamara to make a personal statement. I remind the Assembly that no debate may arise on a personal statement.

Mr McNAMARA (*United Kingdom*). – I am obliged to you, Mr President, for giving me the opportunity to make a personal statement concerning the circumstances leading to my resignation as Rapporteur for the Committee on Legal Affairs and Human Rights.

In 1999, in Recommendation 1418, the Assembly produced an historic charter for the rights of the terminally ill and dying. I was fortunate to be the rapporteur for an opinion of the committee for that report. Recommendation 1418 emphasised the duty of member states to remember that Article 2 of the Convention, as amended by Protocols Nos. 6 and 13, states "everyone's right to life shall be protected by law."

Two years ago I was again appointed rapporteur for an opinion for the report now before us, "Assistance to patients at the end of life". In fact, in my view, the report now before us is actually about euthanasia. The first paragraph of the proposed resolution states that "It is forbidden to cause someone's death deliberately". In my opinion, the subsequent paragraphs gravely and subtly undermine that position.

As Rapporteur for the Committee on Legal Affairs and Human Rights, in the amendments that I proposed to the report I sought to return to the 1999 position while welcoming broad debate on the subject of euthanasia. However, the parameters for that debate laid down in the resolution call for the regulating of procedures leading to euthanasia. Although many of my amendments of substance were accepted by the committee, and indeed at the end of the debate a motion to reject my opinion was overwhelmingly rejected, I felt that I should nevertheless resign as rapporteur because I could better advance my support for the principle of the Convention, and Recommendation 1418 on assistance for the terminally ill and dying, from these benches, where I can speak unconstrained and move my amendments.

THE PRESIDENT. – Thank you, Mr McNamara.

As you have just heard, Mr McNamara has resigned as rapporteur of the committee for opinion. Therefore I call Mr Holovaty, chairperson of the committee, to present the opinion of the Committee on Legal Affairs and Human Rights.

Mr HOLOVATY (*Ukraine*). – The Committee on Legal Affairs and Human Rights was asked to provide the Assembly with an opinion on the report presented by the Social, Health and Family Affairs

Committee. The committee's opinion is provided in Document 10495. As Mr McNamara explained, when adopting this opinion the Committee on Legal Affairs and Human Rights declined to support a number of amendments proposed by Mr McNamara, its rapporteur. Mr McNamara asked to be relieved of his rapporteurship. That is why I, as chairman of the committee, am presenting the committee's opinion. It also explains the divergence between the positions set out in sections 1 and 2, which reflect the position taken by the Committee on Legal Affairs and Human Rights and that which is argued in Mr McNamara's explanatory memorandum. In its opinion, the Committee on Legal Affairs and Human Rights expresses some reservations as to the report of the Social, Health and Family Affairs Committee and proposes nine amendments to the draft resolution.

THE PRESIDENT. – Thank you, Mr Holovaty. I call Ms Err on behalf of the Socialist Group.

Ms ERR (*Luxembourg*) congratulated Mr Marty and said how much she respected his skill and perseverance as a rapporteur on the subject. He had adopted a practical approach. On behalf of the Socialist Group she had to reject the last-minute amendments that had been made the previous day. There would be an opportunity later to vote on the opinion of the Committee on Legal Affairs and Human Rights. She quoted from the book "I am not a murderer", cited in the report. This had said that just as people needed a midwife to enter this world so they might require assistance to leave it. This view summed up the conclusions of the report. There was no conflict between palliative care and euthanasia so long as public policy was based on the rights of the patient and the transparency of the process. Living wills should be accepted. Those who cared for the dying such as doctors and nurses must be supported, but in the end it was the patient who must come first. The Assembly had failed to come to a conclusion on the subject a year previously and it must now take a decision before the Council of Europe summit in Warsaw in June.

THE PRESIDENT (Translation). – Thank you, Ms Err. I call Mr Lintner, on behalf of the Group of the European People's Party.

Mr LINTNER (*Germany*) said that although the Assembly had failed to come to a decision on this subject a year previously, it had revised the report and made compromises and must now take a decision. However, the report still called for active euthanasia and that went against the Council of Europe's previous position. It was not helpful to state that arrangements for the care of the dying in the Netherlands and Germany were satisfactory. Mr McNamara, who had resigned from the Committee on Legal Affairs and Human Rights, had looked into arrangements in the Netherlands and found that things were not at all satisfactory. In many cases procedures had not been followed correctly. The Assembly should continue to use the word euthanasia rather than the German term which could be translated as "assistance to die". The word euthanasia implied active killing and that, he believed, was the intention of the report. Belgium and the Netherlands were the only countries moving towards a policy of euthanasia. His group, therefore, pressed for its amendment to be adopted.

THE PRESIDENT. – Thank you, Mr Lintner. I call Mr Dees on behalf of the Liberal, Democratic and Reformers' Group.

Mr DEES (*Netherlands*). – There are many arguments to support Mr Marty's report and recommendations. Evidence-based, scientific studies prove that euthanasia and other end-of-life decisions are practised in many, if not all countries. In *The Lancet*, a study of the position in six European countries confirms that doctors' assistance to patients at the end of life is practised in all of them, including those where it is currently illegal. One of the study's most important conclusions is that a natural dying process occurs in only one third of all death cases. The proportion of deaths that were preceded by medical end-of-life decisions ranged between 23% in Italy and 51% in Switzerland. A scientific study in Australia shows the same picture as Europe.

Apart from those evidence-based facts, we know the opinions of our fellow citizens in many countries. Public opinion polls show that, in many member states, a large majority of people are in favour of legislation to regulate euthanasia, at least in certain cases and under very specific conditions. In most countries, there is a big gap between criminal law, which defines euthanasia as a criminal offence in all circumstances, and a social reality in which a painless death with dignity is regarded by the patient as the sole solution to unbearable suffering. For liberals, this social reality is much more important than conservative legislation that shows no compassion for fellow citizens who wish to have the right to decide their own fate when they are terminally ill and suffering unbearable pain and humiliation with no prospect of improvement. Those who have a lasting wish to die, and see no alternative, need compassion, from not only doctors but politicians.

Does this view mean that a terminally ill person's wish to die can, of itself, be a legal justification for medically assisted dying? The answer is no. Some people argue against Dutch legislation by saying

that there is euthanasia on request and that the physician has to assist the patient. That is absolutely not the case. Under new legislation, termination of life on request remains punishable, but doctors will not be prosecuted if they meet no less than twenty-three due-care requirements. If those requirements are not met, euthanasia is punishable.

We support Mr Marty's report and recommendation, as did the European organisation of nurses. It is important to stress the support of that organisation. For us, as liberals, it is very important that euthanasia is never the consequence of lack of care. That would be unacceptable. However, it is also unacceptable to prosecute a doctor for assisting the patient, at his request, in the process of dying when there is unbearable suffering and humiliation. In my opinion, that is inhuman, even cruel, when the patient is suffering unbearable pain, has a lasting wish to die and sees no alternative. In those circumstances, it is compassion that counts. Again, I emphasise that we support Mr Marty's well-balanced approach and we hope that many of the last-minute, restrictive amendments will be rejected.

THE PRESIDENT. – Thank you. I call Baroness Knight on behalf of the European Democratic Group.

Baroness KNIGHT (*United Kingdom*). – The European Democratic Group has not voted on this subject, but I am authorised to speak for it. I shall not repeat the objections that I made in the earlier debate, not because they are no longer valid, but because I want to use this time to raise two more.

First, Appendix 1 of the report states that Dutch law allows children from the ages of 12 to 17 to be killed on their request. I sincerely hope that the Assembly would never adopt such a terrible rule. Children at this age are often cast into utter despair by the most trivial things: their football team loses; a spot appears on their face just before a date; an exam is coming up, and they wail, "I just want to die." To take them at their word would be criminal. We must not allow the legal killing of such children, who have their whole lives ahead of them and no experience of how wonderful life can be. Immature, emotional, poor sad little souls need love, care, help and hope, not death.

Secondly, paragraph 33 of the report is wrong when it implies that British doctors would support euthanasia. The British Medical Association, which represents all our doctors, firmly rejects it, and none of our medical colleges supports it. Last month, in a poll of doctors, 75% voted against it. This month, a surgeon wrote an article stating that euthanasia would "have a devastating effect on staffing because so many doctors from Muslim, Christian and other faiths are strongly opposed". We could not run our hospitals without those doctors. They should not be forced to kill. The report acknowledges that but gives no hint about how they could be protected. Indeed, page 21 speaks sternly of new obligations for doctors and threatens that failure to fulfil them would mean that those doctors were "criminally responsible".

Those who introduced Britain's abortion act promised that staff who had conscientious objections would not be forced to carry out abortions. That promise was never kept, nor would a promise on this subject be kept. Paragraph 38 seems to regret that doctors are not trained to kill. No – they are trained to do exactly the opposite: to help, to cure and "above all, to do no harm". Are we to turn all this on its head?

If this report is accepted, I fear for sick people, young people, Muslim or Christian medical staff and for society as a whole. In Holland, more than 1 000 patients are killed by doctors every year following the passage of legislation, but without the patients' consent. Please let us not follow that.

THE PRESIDENT. – Thank you. I call Mr Tiny Kox on behalf of the Group of the Unified European Left.

Mr KOX (*Netherlands*). – Rapporteur Marty has spent quite a lot of his life and energy in trying to reach consensus on this matter in the Assembly. Today we will see whether he has been successful. The question is whether it is acceptable to help someone who is terminally ill to end his or her life at his or her request when life has become a burden accompanied by unbearable suffering. Until now, many different answers have been given to that question.

Only very few people and even politicians believe that terminally ill people should be condemned to unbearable suffering. However, the question is how we should define this unbearable suffering; how we should judge the mind of the person involved or consider an earlier statement that he or she might have made; and how we can be sure that everything else has been tried to diminish the suffering. We must be sure that the declared will to end life has not been influenced in any way by other considerations such as insufficient health care or care for the elderly or the idea that one is a burden to others. Furthermore, we must ensure that nobody misuses the legal possibility to end another person's life. There are worries that the doctors involved cannot be sufficiently controlled and that judges cannot prevent any abuse or take action to examine whether every rule is applied properly during the process of euthanasia.

All those questions are asked in society and also in the Group of the Unified European Left, which I represent this morning. In our group, as elsewhere, the answers are not always the same. However, we agree on this: assisting patients to end their lives should be in accordance with the main principles of civilised society – human dignity, equality and solidarity between people. I can understand the worries that exist and the questions that are asked in this Assembly, given that I am a citizen of one of the few countries that has legalised euthanasia under very strict conditions. In the Netherlands, we had a long debate about whether to legalise euthanasia under special conditions, if and when unbearable suffering is all that is left for a human being. After the law on euthanasia was passed, the debate did not end. On the contrary, it continues to this very day. Now we can examine the practice of euthanasia under the new law and the problems that arise.

I assure everybody here that the Netherlands has not lost its civilization due to this law. I invite Baroness Knight to come and see for herself and not base her views on strange statements in newspapers. In my opinion, human dignity also means the right to die in a dignified way. Most Dutchmen share that opinion after some years of experience of the legalisation of euthanasia. The law has helped patients, their families, doctors and nurses to do what is best for the patients involved. In the Netherlands, we can be proud that we have not hidden from what is happening in society and that we have chosen to address it.

However, not all cases of euthanasia are properly registered. Many doctors are afraid that doing what they consider to be best for patients who are experiencing unbearable suffering will bring them into the courtroom. That problem also relates to the small gap between active and passive euthanasia. Following the legalisation of euthanasia in the Netherlands, we have paid attention to all forms of palliative care in, for example, our many hospices. Another problem is that our current level of health care is insufficient, which can influence people's opinions. The right to die in a dignified way cannot be isolated from the right to live in a dignified way, so we should take care to ensure that we provide the maximum level of health care.

I compliment the rapporteur on his balanced report. If that balance is disturbed by amendments, it will influence my decision whether to support the report. I do not think that a report on euthanasia should be killed by so many destructive amendments.

THE PRESIDENT (Translation). – Thank you, Mr Kox. I call Mr Dreyfus-Schmidt.

Mr DREYFUS-SCHMIDT (*France*) said that he supported everything in Mr Marty's report. However, the Assembly must not ostracise Belgium and the Netherlands for their policy on the care of the dying. No one in the Assembly was arguing for the prolonged and artificial continuation of life. All accepted that in some cases palliative substances could shorten life and that was in fact a form of passive euthanasia. The report made the point very clearly. This was an admirable report and he hoped that the authors would discuss the amendments and the recommendations of the Committee on Legal Affairs and Human Rights.

THE PRESIDENT (Translation). – Thank you, Mr Dreyfus-Schmidt. I call Mr Rigoni.

Mr RIGONI (*Italy*) said he had the impression that Mr Marty's report was ambiguous. Clarity and logic were needed at this point. In the resolution there were confused arguments about palliative care. It was only on examining the explanatory memoranda that the reader could see that the argument for euthanasia had made progress. The idea of partial euthanasia as criminal needed to be rejected. It was artificial to draw a line between active and passive euthanasia. Judgments of the European Court were relevant. That euthanasia happened frequently was not an argument for legalising it. The Assembly had already passed Resolution 1418 in which it called on states to guarantee care for the terminally ill. The question now was what the Assembly's stance should be to alleviate pain for the terminally ill. Palliative care was an alternative to euthanasia which rendered it superfluous. He recalled the late Pope John II's view that the value of human dignity was not dependent on an individual's physical state. It was necessary to support the dignity of human beings.

THE PRESIDENT. – Thank you, Mr Rigoni.

I remind members that the vote to elect a judge to the European Court of Human Rights is in progress. The poll will close at 1.30 p.m., and those who have not yet voted may do so by going to the area behind the President's chair.

I call Mr Jurgens.

Mr JURGENS (*Netherlands*). – I am a social democrat, but also a Catholic and a strong supporter of the hospice movement in my country. I therefore voted in favour of the law that has been criticised today by quite a few speakers. The report by Dick Marty is eminently reasonable. Why? Because he asks that public debate be fostered. How can anybody be against an open and robust debate on an important matter such as the right and ability of a person to decide to die in dignity or to be stopped on that way?

This whole subject involves more than one ethical value. Some say, and I hear them saying it, that only one is involved, which is the right to life, and that it should be protected by law – as my much-respected colleague, Kevin McNamara, said this morning as one of the first speakers. However, that is not the only right involved. It is very important, of course, in respect of Article 2 of the Convention, but no reasonable imputation of Article 2 can let it be read as an obligation to live if the person involved is terminally ill, suffering intolerably and wishes to be able to decide to die in dignity. The right to life is therefore not an obligation to live. In no way can the Convention be read in that sense.

The European Convention is saying that the right to life should be protected by law, but that in no way puts up any barrier to the two other ethical principles involved. One is compassion. I call on my Christian colleagues here: compassion for fellow human beings is the very basis of Christian values. That is what is involved today – compassion for a suffering human being who is terminally ill, but wants to die in dignity.

The second value is the right to personal autonomy and self-determination. They are both ethical values of at least equal worth to the right to life. It is not always clear which of those values should come out on top. Debates on moral issues should be open, robust and fair. They should also be based on facts. My dear colleague Baroness Knight, like last time, was very free with the facts. I see that she is not present at the moment. Of course, in Dutch law it is not perfectly healthy children who can decide to apply for assistance with dying. That can be done by terminally ill children who are suffering unbearably, so it is unfair to portray this as anything else. That is very important indeed. In no way are medical staff obliged to comply with a request to help in assisting in dying. If a doctor or nurse does not want to do it, they can simply refuse.

I hope the Assembly will accept the Marty report without the fifty amendments, which were unfairly proposed at the last moment. We have had the Marty report since February, so there have been two and a half months in which to table amendments, but people waited until the very last moment. In all my years as a member of this Assembly, I have never seen the like. If the Assembly rejects this report, it will be rejecting the central proposition – that is, to foster public debate on such an important issue. It would put the Council of Europe to shame if we rejected such a report.

THE PRESIDENT. – Thank you. I call Mr Davern.

Mr DAVERN (*Ireland*). – First, I want to compliment Mr Marty on the effort he has put into the report. On a personal basis, I oppose euthanasia, but I understand that there is some argument for legal counselling to be given to those involved in medical applications and the medical treatment of people, especially when there may be subsequent doubt as to whether doing so was legal. I refer in particular to the double jeopardy syndrome, which we know is a strong part of the right to die when medicines are used that in fact encourage and speed up the death of that person.

I feel especially sorry for those who feel so strongly that we are wrong to oppose euthanasia. There is no tolerance for our view or our attitudes. I have been a member of parliament for more than thirty-six years, but I have never seen a law yet that was introduced and not expanded within a very short time. Either the courts or the parliament itself decides that the law needs to be expanded, or the abuse comes about due to regular practice. We should be trying to achieve far more palliative care – calling for the right and dignity of the living to live their life, however they are suffering, with far more palliative care.

What disturbs me most about the debate on the report is the fact that opinion polls are being quoted around the Hemicycle and in various places, saying that 70% or 80% of people want euthanasia. However, an opinion poll among doctors in England showed that three out of four – 74% – would refuse to perform assisted suicide if asked. A clear majority – 56% – would also consider it impossible to set safe boundaries for euthanasia. That is the argument I am making: what is a safe boundary?

To the question, “As a doctor, would you agree to assisted suicide?”, 25% agreed while 60% disagreed and 13% were undecided. The number who rejected euthanasia was higher – 61% compared with 22%. Not one palliative doctor who responded to the survey would practice or assist in suicide.

As for the issue of care, what worries me most is the question of what to do about those who cannot speak for themselves and have a living will, which some people here today are looking for. Where

does euthanasia start and where does it stop? That is the question we have to ask. What if someone has a reason to get rid of a parent? God knows, not enough children in our society today are prepared to look after parents. Perhaps it is inconvenient or costly for them to be alive; perhaps there is direct benefit to be gained from their will if they die. Those things may shock people, but that is the reality.

In particular, what would be done with the profoundly handicapped and with autistic children when people said that they had no quality of life? Do we agree that euthanasia should be applied to them by some medical person or some committee, which would make a decision even though we know that the parents care so deeply for those children and have had a great responsibility thrust upon them? Does this issue come down to Alzheimer's or senility? Are people saying, "There is no quality of life left, so let's put him out of his misery"?

I cannot vote for this report and I hope that euthanasia is not legalised.

THE PRESIDENT (Translation). – Thank you. I call Mr Colombier.

Mr COLOMBIER (*France*) said that the Assembly was looking at the end of life which, in view of longer life spans, was relevant. Belgium and the Netherlands had made euthanasia legal. The rapporteur had supported that as respecting individuals and the individual will. Analysis carried out in the Assemblée Nationale showed that the power went not to patients but to doctors who were expected to kill. There was confusion, for example, over arrangements for individual patients who were unconscious and the procedures for doctors to follow. There was evidence that doctors did not fill out the correct form and performed illegal acts of euthanasia but were not prosecuted. There was the problem also of abuses as outlined in the British Medical Journal on 8 January 2005. Handicapped minors – a group deserving of protection – were at risk. In Belgium, kits were handed out to patients to perform euthanasia. The report encouraged palliative care and discussion. Each country had to consider its own position. One size did not fit all. France, for example, had decided on a consensual approach. Precision of terminology was essential to the issue of euthanasia.

THE PRESIDENT. – Thank you, Mr Colombier. I call Mr Grebennikov to speak on behalf of the European Democratic Group.

Mr GREBENNIKOV (*Russian Federation*) said that he would like the Assembly to pay attention to several issues with regard to euthanasia. Firstly, they should consider the question of the right to life, which he saw as the most basic and important of all human rights. To interfere with a person's right to life was simply not ethical. The Russian Orthodox Church backed that view and had gone so far as to condemn this debate in the Assembly. The Church saw the human right to life as a sacred manifestation of God's creation. Secondly, the question of what might happen tomorrow in terms of medical advances was always important. Authorities must wait to see if treatments would emerge that could save a person's life before giving them the right to end it. It was immoral to condone any form of legislation that decriminalised euthanasia.

THE PRESIDENT (Translation). – Thank you, Mr Grebennikov. I call Mr Rochebloine to speak on behalf of the Group of the European People's Party.

Mr ROCHEBLOINE (*France*) said that euthanasia was a delicate and difficult subject concerning the limits of human life which must be respected. It would be hard for the law to offer a fair solution to the problem. What may prove a compassionate law for some may be a source of suffering for others. The responsibility for dealing with the last stages of a person's life fell principally on care givers – doctors, nurses, etc. Palliative care was a way of showing respect for a person and should be regarded as an important aspect of medicine. Useless treatment should not be inflicted on patients, but their independence should be safeguarded for as long as possible. Medical courses should train future doctors properly in palliative care and not treat it as superfluous to the other aspects of the course. Care should be taken to ensure that economic restrictions on hospitals did not lead to relaxation of the laws on euthanasia.

THE PRESIDENT. – Thank you, Mr Rochebloine. I call Mr Czinege to speak on behalf of the Socialist Group.

Mr CZINEGE (*Hungary*). – Dear colleagues, we must answer three important questions about euthanasia. First, we must consider prohibition of euthanasia; secondly, we must consider the patient's right to refuse medical treatment based on the right to self-determination; and, thirdly, we must consider the link between them. According to Hungarian health laws on the right to self-determination, the patient has the right to make decisions on medical interventions. They have the right to accept medical treatment or to refuse it.



They can do so because they are continually informed about their medical status. According to the state of medical sciences even incurable patients have the right to self-determination. The right to refuse life-saving treatments is applicable, but only if a medical committee consisting of three doctors says that a patient is incurable. The refusal can be announced in an official document.

In Hungary, the health law allows neither active nor passive euthanasia. The patient can make a decision on the basis of their right to self-determination that they do not want to live with illness causing serious suffering. Everybody can make a decision about his or her death. If a doctor helps to end a patient's life, the situation is completely different. That is not a part of the patient's right to self-determination because another person, the doctor, can become part of the process, raising the question of murder.

I cure patients, so I can say that we have to mitigate the patient's suffering and ease their pain – that is our mission.

THE PRESIDENT. – Thank you, Mr Czinege. I call Mr Eörsi.

Mr EÖRSI (*Hungary*). – My grandfather was extremely unlucky, to say the least, when it came to his death. He was a proud person with a happy family life, full of joy, but he had guilt. He was born Jewish, so out of the blue he was transported to Buchenwald. Why? So that he could be slaughtered. He was one of the rare ones who returned from Buchenwald, and many years later he went through a terrible disease. He was in horrible pain, and he cried and screamed, having a single wish, that his life would come to an end. Of course, he was not permitted to die; he had to continue to suffer.

Who collected my grandfather? Who transported him? Who tortured him? It was the state, the authorities. It was temporarily a terrorist state, but still it was the authorities. Who then forced my grandfather to continue his life when he wanted to bring it to an end? Again, it was the authorities. When it comes to the role of the authorities, I have the full conviction that governments should acknowledge the right of the individual to live and to die according to their own ideas about what makes life worth while. The authorities must therefore acknowledge the individual's right to help without making a moral judgment about the acceptability of euthanasia. Governments should acknowledge that right without enforcing religious or philosophical ideas.

Having heard many of our colleagues, I am aware that there are millions of people in Europe and more widely whose conscience would tell them that what I suggest is impossible and they could not do such a thing. I fully respect their views. I would never conclude that we should force any medical personnel, or anybody else, to take part in something that goes against their convictions. But then I have to insist that the same respect is paid to people with other beliefs, whose conscience tells them something different and who have different opinions on the most difficult issues, those of life and death.

I want to commemorate my grandfather. When he was taken to Buchenwald, Europe remained silent. When he wanted to die and he was not allowed to do so, Europe remained silent. It is magnificent that Europe, through this Assembly, speaks up very loudly about death enforced by the state, but the time has come to speak about death banned by the state despite the wishes of individuals. That is what I owe my grandpa.

THE PRESIDENT. – Thank you, Mr Eörsi. I call Mr Geveaux.

Mr GEVEAUX (*France*) said that the draft resolution concerning end of life issues was dealing with a painful and complex subject. He could not endorse the contents of the text and found the explanatory memorandum to be not in harmony with the resolution. He stressed the need to clarify the terminology to prevent misunderstandings. Euthanasia should be described as a deliberate action which directly led to the end of a patient's life. He cited the recently adopted French legislation which, taking into account the views of experts, concluded that euthanasia should not be legalised but that patients should be able to oppose unreasonable treatments. The legislation stressed the importance of palliative care and called for such care to be broadened and in some cases given in the home of the patient. The legislation also said that decisions should be taken collectively by the family, the hospital, the medical staff and the patient and that such decisions must be recorded clearly in the patient's file. This legislation was different from the Belgian and Dutch legislation. It was a major development and should be used as the basis for discussion in the Assembly.

THE PRESIDENT. – Thank you, Mr Geveaux. I call Mr Huss.

Mr HUSS (*Luxembourg*) said that although he was representing the Socialist Group he was a Green member of parliament in his own country and so was also representing the views of the Green

Party. He said that if adequate treatment and palliative care for terminally ill patients was available many people would be reassured as regards the end of their lives. Similarly, if euthanasia were to be decriminalised and living wills became commonplace, citizens would be reassured that their wishes regarding the end of their lives would be respected. It was unfortunate that some members of parliament were not ready to accept the opinion of the majority. The issue of euthanasia was all about respect and so it was important that the opinions of others were respected. Legislation must be changed to allow for the decriminalisation of euthanasia. This was not a question of who was right but a question of respect and freedom of choice. The report of the committee was well balanced, intelligent, and should be acceptable to all. He warned that the report should not be weakened through the amendments that had been tabled.

THE PRESIDENT. – Thank you, Mr Huss. I call Mr Fedorov.

Mr FEDOROV (*Russian Federation*) said that the Assembly had discussed the subject of euthanasia at the same time the previous year. The title of the new report was different but views were still deeply held. Two approaches had been put forward: some wished to ban euthanasia, others to allow it. Article 2 of the European Convention on Human Rights stated that the right to life must be defended. The Assembly was right to continue to discuss the subject but paragraph 4 of Mr Marty's report was completely wrong. A recent article in the Russian newspapers had shown how a tiny premature girl had been kept alive and saved by the efforts of the doctors caring for her. Many patients were deeply depressed when they asked doctors to end their life and were not in a position to take a clear view. The Assembly must uphold the right to life until the very end. The word euthanasia meant a "good death", but there was a danger that people would come to distrust doctors. The role of doctors was to maintain life, not to destroy it. It was important to strengthen the legislation covering both patient and carer. The feelings of the medical profession must be taken into account. Euthanasia was a crime in Russia.

THE PRESIDENT. – Thank you, Mr Fedorov. I call Mr Wodarg.

Mr WODARG (*Germany*) felt that when the patient said "I can't go on" alternatives must be offered. Palliative care was not always available to those in institutions. There was a danger when discussing the care of the dying of coming up with simple, cost-effective ways of dealing with the situation. As a health economist he was well aware that the last three months of life could be the most expensive in terms of medical treatment and care. The authorities in Germany had found it difficult to fund palliative medicine. If no effort was made to accompany a dying person others would take the simple, cheap, easy way out. It was important to look at the situation in Belgium, the Netherlands and Switzerland but Mr Marty was creating another grey area through his report. Over a thousand people had been killed by their doctors in those countries. By taking the easy way out the idea that this was the only option would gain ground. Rich countries could and should do much more.

THE PRESIDENT. – Thank you. I call Ms Vermot-Mangold.

Ms VERMOT-MANGOLD (*Switzerland*) said that the Social, Health and Family Affairs Committee did want to safeguard the rights of patients at the end of life. It was important not to be over-emotional. The dying must be accompanied at the end. Yesterday the committee accepted many amendments, but she could not agree to their being adopted. The human rights of the dying must be respected and the Assembly had not dealt with the questions of when, how and by whom life should be ended. It was wrong to prolong by technological means the suffering of the dying. The Assembly must consider their dignity.

THE PRESIDENT. – Thank you. I remind members that a vote is in progress to elect a judge to the European Court of Human Rights. The poll will close at 1.30 p.m. Those who have not yet voted may still do so in the area behind the President's chair. I now call the last speaker in the debate, Ms González-Carrillo from Mexico. She is an Observer.

Ms GONZÁLEZ-CARRILLO (*Observer from Mexico*) said how important it was that people should be well looked after at the end of life. She cited the example of Mother Teresa who through her respect for human dignity had done so much to help the dying. No one had the right or the power to end the life of another. All had the right to life and if sight of this was lost, mistakes could be made. Suffering could be avoided through scientific and technological progress. Investment in such developments should be made in order to preserve the right to and quality of life. Life should prevail over power. Mankind should seek to avoid suffering using science and technology. Science and technology should serve mankind not vice versa. She considered that a different approach had been adopted here and hoped that euthanasia would not be legalised.

THE PRESIDENT. – Thank you, Ms González Carrillo.

I must now interrupt the list of speakers. The speeches of members on the speakers' list who have been present during the debate but have not been able to speak may be given to the Table Office for publication in the official report.

I call Mr Marty, rapporteur, to reply. He has four minutes, which he may share with the chairperson of the committee for opinion.

Mr MARTY (*Switzerland*) said that it had been a great experience to produce the report and in doing so he had abandoned preconceptions. He had met many health care professionals and made many relevant visits. He had also received a letter from the International Committee of Nursing Staff in European Union member states which supported the resolution and report. He would treasure this. He asked the Assembly to note that he had been supported by medical professionals. He had the impression from the debate that some members had been reading a different report. The last speaker had said the report encouraged euthanasia, and that Switzerland had legal euthanasia. This was not so. He urged the Assembly to stick to the facts. He pointed to the first part of the report which lists measures to prevent the need to die. He said that the choices of people had to be respected. He pointed to the White case in the United States in which the parents were seeking to prolong the life of their child, but which the judge had characterised as torture. He supported life.

THE PRESIDENT. – Thank you, Mr Marty. I call Mr Glesener on behalf of the Social, Health and Family Affairs Committee.

Mr GLESENER (*Luxembourg*) said that the committee had started work following Assembly Resolution 1418 in 2001, the decision to examine euthanasia. The work had proceeded until 27 April 2004 but he did not believe that anything had changed in the debate so far as public opinion and the Chamber of the Parliamentary Assembly was concerned. There had been petition with 50 000 signatures expressing concern about the debate. The committee had tried to achieve consensus, but had failed despite the efforts of the rapporteur. The subject was always going to be problematic. He thought that the issue was one of personal choice.

THE PRESIDENT. – Thank you, Mr Glesener.

The debate is closed. The Social, Health and Family Affairs Committee has presented a draft resolution in Document 10455, to which seventy-one amendments have been tabled. They will be taken in the order in which they appear in the notice paper. I remind you that there is available a compendium which sets out all of the amendments in the order in which they will be taken. I remind you that we have agreed that speeches on amendments are limited to thirty seconds. If we do not stick to that limit, we will not finish at 1.30 p.m.

We come to Amendment No. 1, tabled by Mr Kevin McNamara, on behalf of the Committee on Legal Affairs and Human Rights, which is, in the draft resolution, paragraph 1, replace the words "pointed out in" with the word: "recalls".

This amendment affects only the English text of the draft resolution.

I call Mr Holovaty to support the amendment.

Mr HOLOVATY (*Ukraine*). – The Committee on Legal Affairs and Human Rights supports the amendment proposed by Mr McNamara.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is in favour.

The vote is open

*Amendment No. 1 is adopted.*

We come to Amendment No. 51 tabled by Mr Renzo Gubert, Mr Andrzej Wielowieyski, Ms Patrizia Paoletti Tangheroni, Mr Giuseppe Gaburro, Mr Egidijus Vareikis, Mr Gabino Puche, Mr Murat Mercan, Mr Latchezar Toshev, Mr Göran Lindblad, Mr Julio Padilla and Mr Adolfo Fernández Aguilar, which is, in the draft resolution, paragraph 1, third sentence, after the term "inter alia" insert the following words: "that it is essential to protect human life and".

I call Mr Gubert to support the amendment.

Mr GUBERT (*Italy*) said that the point of the amendment was to protect human life.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is in favour.

The vote is open

*Amendment No. 51 is adopted.*

We come to Amendment No. 29, tabled by Mr Kevin McNamara, Mr Thomas Cox, Mr Eduard Lintner, Sir Sydney Chapman, Mr John Wilkinson and Mr Syd Rapson, which is, in the draft resolution, delete paragraph 2.

I call Mr McNamara to support the amendment.

Mr McNAMARA (*United Kingdom*). – Paragraph 2 seeks to define the terms of the debate in one direction. I believe that we should not narrow the terms of the debate. This should be an open debate, so we should not agree to the terms of reference as contained in this paragraph.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

I call Mr Dees.

Mr DEES (*Netherlands*). – I oppose the amendment tabled by Mr McNamara because it denies the facts. The relevant paragraphs contain the scientific and other facts, and we should keep that in the draft resolution.

THE PRESIDENT. – The committee is against the amendment.

The vote is open.

*Amendment No. 29 is rejected.*

We come to Amendment No. 52 tabled by Mr Renzo Gubert, Mr Andrzej Wielowieyski, Ms Patrizia Paoletti Tangheroni, Mr Giuseppe Gaburro, Mr Egidijus Vareikis, Mr Gabino Puche, Mr Adolfo Fernández Aguilar, Mr Murat Mercan, Mr Latchezar Toshev, Mr Göran Lindblad and Mr Julio Padilla, which is, in the draft resolution, paragraph 2.i, replace the terms “that specifically address the issue of euthanasia” with the words:

“which, contrary to Recommendation 1418, allow euthanasia to be practised under certain conditions”.

I call Mr Gubert to support the amendment.

Mr GUBERT (*Italy*) said that there were new facts. Belgium and Holland had introduced new legislation on euthanasia that clashed with Resolution 1418 of the Assembly.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Jurgens.

Mr JURGENS (*Netherlands*). – There is a consistent tendency to misinterpret our Recommendation 1418, which is about palliative care, not euthanasia. Proceeding as if that recommendation banned all forms of euthanasia – even the laws that now apply in Belgium and Holland – is unfair and completely incorrect. Therefore, reference to Recommendation 1418 in this context cannot be allowed.

THE PRESIDENT. – The committee is against the amendment.

The vote is open.

*Amendment No. 52 is rejected.*

We come to Amendment No. 2 tabled by Mr Kevin McNamara, on behalf of the Committee on Legal Affairs and Human Rights, which is, in the draft resolution, paragraph 2.ii, delete the word "even".

I call Mr Holovaty to support the amendment.

Mr HOLOVATY (*Ukraine*). – The Committee on Legal Affairs and Human Rights supports Mr McNamara's proposal.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is in favour of the amendment.

The vote is open.

*Amendment No. 2 is adopted.*

We come to Amendment No. 10, tabled by Mr Jean-Marie Geveaux, Mr Georges Colombier, Ms Arlette Grosskost, Mr Jean-Pierre Kucheida, Mr Bernard Schreiner, Mr Jean-Claude Mignon, Mr André Schneider, Mr Gilbert Meyer and Mr Jean-Guy Branger, which is, in the draft resolution, after paragraph 2.ii, insert the following sub-paragraph:

"France recently adopted legislation on limitation and termination of treatment which, while rejecting any legalisation of euthanasia, institutes a right to allow a person to die;"

I call Mr Geveaux to support the amendment.

Mr GEVEAUX (*France*) said that the amendment took account of the French choice and added a new perspective.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Marty.

Mr MARTY (*Switzerland*) asked if an oral sub-amendment was in order because he wished to point out that French law referred to passive euthanasia as opposed to active direct euthanasia.

THE PRESIDENT. – Ten members must support an oral amendment. Who supports the proposal? There are not enough members in support. It is not accepted.

The vote is open.

*Amendment No. 10 is adopted.*

We come to Amendment No. 11 tabled by Mr Jean-Marie Geveaux, Mr Georges Colombier, Ms Arlette Grosskost, Mr Jean-Pierre Kucheida, Mr Bernard Schreiner, Mr Jean-Claude Mignon, Mr André Schneider, Mr Gilbert Meyer and Mr Jean-Guy Branger, which is, in the draft resolution, paragraph 2.iii, replace the words "are highly sensitive to this issue and in several countries there seems to be a majority in favour of euthanasia, at least in a limited number of very special cases" with the following words:

"apprehend the end of life with great anxiety and fear of decrepitude, and speculate about the existing means to relieve physical pain and to sooth spiritual anguish".

I call Mr Geveaux to support the amendment.

Mr GEVEAUX (*France*) said that the purpose of the amendment was to note the anguish of society, as reflected in opinion polls on this subject.

THE PRESIDENT. – Thank you. I understand that Mr Marty wishes to propose an oral sub-amendment on behalf of the Social, Health and Family Affairs Committee, which reads as follows: "Replace the proposed text of Amendment No. 11 with the following words: 'are highly sensitive and apprehend the end of life with great anxiety. In several countries there seems to be a majority in favour of euthanasia, at least in a limited number of very special cases'. So that paragraph 2.iii would read: 'opinion polls, particularly those carried out in the wake of high-profile cases, show that people are highly sensitive and apprehend the end of life with great anxiety. In several countries there seems to be a majority in favour of euthanasia, at least in a limited number of very special cases'."

In my opinion, the oral sub-amendment meets the criteria of Rule 34.6 and can be considered unless more than ten members of the Assembly object.

Is there any opposition to the oral sub-amendment being debated?

More than ten members object, so the Assembly cannot consider the oral sub-amendment.

What is the opinion of the committee?

Mr GLESENER (*Luxembourg*) said that the committee supported the amendment.

THE PRESIDENT. – Thank you. I call Mr Dreyfus-Schmidt.

Mr DREYFUS-SCHMIDT (*France*) wished to raise a point of order.

THE PRESIDENT. – The vote is open.

*Amendment No. 11 is rejected.*

We come now to Amendment No. 53, tabled by Mr Renzo Gubert, Mr Andrzej Wielowieyski, Ms Patrizia Paoletti Tangheroni, Mr Giuseppe Gaburro, Mr Egidijus Vareikis, Mr Gabino Puche, Mr Adolfo Fernández Aguilar, Mr Murat Mercan, Mr Latchezar Toshev, Mr Göran Lindblad and Mr Julio Padilla, which is, in the draft resolution, paragraph 2.iii, replace the word “several” with the word: “certain”.

I call Mr Gubert to support the amendment.

Mr GUBERT (*Italy*) said that the wording should be changed from “several” to “certain” as member countries had very different attitudes.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is against the amendment.

The vote is open.

*Amendment No 53 is adopted.*

We come to Amendment No. 30, tabled by Mr Kevin McNamara, Mr Thomas Cox, Mr Eduard Lintner, Sir Sydney Chapman, Mr John Wilkinson and Mr Syd Rapson, which is, in the draft resolution, paragraph 2.iii, replace the words “a majority in favour” with the following words:

“numerous partisans of legalisation”.

I call Mr McNamara to support the amendment.

Mr McNAMARA (*United Kingdom*). – It is evident in the way in which these matters are handled and the way in which surveys are framed that questions are often loaded, and are either in favour of or against the issue. We should therefore replace the words “a majority in favour” with “numerous partisans of legalisation”.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is against the amendment.

The vote is open.

*Amendment No. 30 is adopted.*

We come to Amendment No. 27, tabled by Mr Pasquale Nessa, Mr Andrea Rigoni, Ms Patrizia Paoletti Tangheroni, Mr Enrico Rizzi, Mr Renzo Gubert, Mr Gianpietro Scherini and Mr Giovanni Mauro, which is, in the draft resolution, paragraph 2.iv, replace the words “some serious scientific studies” with the following words:

"numerous surveys".

I call Mr Nessa to support the amendment.

Mr NESSA (*Italy*) said that the amendment should be supported by all those with a conscience.

THE PRESIDENT. – I understand that Mr Marty wishes to propose an oral sub-amendment on behalf of the Social, Health and Family Affairs Committee that reads as follows: "In Amendment No. 27, before the words 'numerous surveys', insert the words: 'some serious scientific studies and'." So that the beginning of paragraph 2.iv. would read: "some serious scientific studies and numerous surveys clearly show ...".

In my opinion, the oral sub-amendment meets the criteria of Rule 34.6, and can be considered unless ten or more members of the Assembly object. Is there any opposition to the oral sub-amendment being debated?

More than ten members object to our debating the oral sub-amendment, so the Assembly cannot consider it.

Does anyone wish to speak against the amendment?

I call Mr Dees.

Mr DEES (*Netherlands*). – The amendment ignores evidence-based scientific studies in *The Lancet* and the *British Medical Journal*. We should keep the original text and reject the amendment.

THE PRESIDENT. – The committee has not reached an opinion.

The vote is open.

*Amendment No. 27 is adopted.*

We come to Amendment No. 54, tabled by Mr Renzo Gubert, Mr Andrzej Wielowieyski, Ms Patrizia Paoletti Tangheroni, Mr Giuseppe Gaburro, Mr Egidijus Vareikis, Mr Gabino Puche, Mr Adolfo Fernández Aguilar, Mr Murat Mercan, Mr Latchezar Toshev, Mr Göran Lindblad and Mr Julio Padilla, which is, in the draft resolution, paragraph 2.iv, after the words "various forms of euthanasia are" insert the word: ", unfortunately,".

I call Mr Gubert to support the amendment.

Mr GUBERT (*Italy*) said that this point was linked to new facts that had emerged since the previous resolution in 1999. The word "unfortunately" should be inserted.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Jurgens.

Mr JURGENS (*Netherlands*). – Earlier, Mr McNamara wanted to delete the whole of paragraph 2 because it pushed the debate in a certain direction. The Assembly did not accept his proposal. Amendment No. 54 pushes the debate even further in a certain direction, because the word "unfortunately" suggests that one holds a certain opinion. The amendment must certainly be rejected.

THE PRESIDENT. – The committee is in favour of the amendment.

*Amendment No. 54 is adopted.*

THE PRESIDENT. – We come to Amendment No. 31, tabled by MM Kevin McNamara, Thomas Cox and Eduard Lintner, Sir Sydney Chapman, MM John Wilkinson and Syd Rapson, which is, in the draft resolution, after paragraph 2, insert the following paragraph:

"On the other hand, since the right to life and the juridical protection of human dignity, as well as the right to non-discrimination of patients is involved, the reflection will need to bear in mind these principles which the Assembly cannot put aside."

I call Mr McNamara to support Amendment No. 31.

Mr McNAMARA (*United Kingdom*). – The amendment is meant to ensure that the right to life, the judicial protection of human dignity and the non-discrimination of patients have to be borne in mind, and that the Assembly cannot put those matters aside.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is in favour of the amendment.

The vote is open.

*Amendment No. 31 is adopted.*

We come to Amendment No. 32, tabled by MM Kevin McNamara, Thomas Cox, Eduard Lintner and Sir Sydney Chapman, MM John Wilkinson and Syd Rapson, which is, in the draft resolution, after paragraph 2, insert the following paragraph:

“The continual advance of medical science and the increased life expectancy associated with it may make available more adequate care for the terminally ill without imposing on them inappropriate or disproportionate treatments (problem of excessive medical treatment).”

I call Mr McNamara to support Amendment No. 32.

Mr McNAMARA (*United Kingdom*). – In the paragraph that we want to insert we acknowledge that the continual advance of medical science means that people can be kept alive. We acknowledge that that might not be a good thing for the person involved, so we say that any medical advances should not be used wrongly and adversely to affect the life of the patient.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is in favour of the amendment.

The vote is open.

*Amendment No. 32 is adopted.*

We come to Amendment No. 55, tabled by Mr Renzo Gubert, Ms Patrizia Paoletti Tangheroni and MM Giuseppe Gaburro, Egidijus Vareikis, Gabino Puche, Adolfo Fernández Aguilar, Murat Mercan, Latchezar Toshev, Göran Lindblad and Julio Padilla, which is, in the draft resolution, replace paragraph 3 with the following:

“The Assembly is perfectly aware that this is a very delicate issue insofar as it concerns a fundamental human right, namely the right to life, which must be protected in all countries. The approach to the problem and the solutions we seek must not necessarily be the same for all countries. In any case, allowing euthanasia means breaching the inviolable principle that human rights and dignity must be respected.”

I call Mr Gubert to support Amendment No. 55.

Mr GUBERT (*Italy*) said that the amendment referred to the rewriting of paragraph 3, which highlighted the ways in which moral or religious convictions may influence treatment.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Jurgens.

Mr JURGENS (*Netherlands*). – Speaking as a constitutional lawyer, I have to say that the amendment is completely incorrect. As I said in the debate, the right to life is not an obligation to live. One cannot derive from human rights the last sentence of the amendment, which says, “In any case, allowing euthanasia means breaching the inviolable principle that human rights and dignity must be respected.”

THE PRESIDENT. – If the amendment is adopted, Amendment No. 33 will fall.

The committee is in favour of Amendment No. 55.

The vote is open.

*Amendment No. 55 is adopted.*



We come to Amendment No. 3, tabled by Mr Kevin McNamara, on behalf of the Committee on Legal Affairs and Human Rights, which is, in the draft resolution, paragraph 4, after the words "genuine policy of", insert the following words: "physical, moral and spiritual".

I call Mr Holovaty to support Amendment No. 3.

Mr HOLOVATY (*Ukraine*). – The Committee on Legal Affairs and Human Rights supports the amendment.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is in favour of the amendment.

The vote is open.

*Amendment No. 3 is adopted.*

We come to Amendment No. 34, tabled by MM Kevin McNamara, Thomas Cox and Eduard Lintner, Sir Sydney Chapman, MM John Wilkinson and Mr Syd Rapson, which is, in the draft resolution, paragraph 4, replace the words "which does not cause them to want to die" with the following words: "which avoids that a wish to die arises".

I call Mr McNamara to support Amendment No. 34.

Mr McNAMARA (*United Kingdom*). – With this amendment, I seek to put the expression in the draft resolution in a positive rather than a negative sense.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is against the amendment.

The vote is open.

*Amendment No. 34 is adopted.*

We come to Amendment No. 56, tabled by Mr Renzo Gubert, Ms Patrizia Paoletti Tangheroni and MM Mr Giuseppe Gaburro, Egidijus Vareikis, Gabino Puche, Adolfo Fernández Aguilar, Murat Mercan, Latchezar Toshev, Göran Lindblad, Julio Padilla and Andrzej Wielowieyski, which is, in the draft resolution, paragraph 4.i, delete the words: ", while also realising that it may shorten his or her life in certain cases".

I call Mr Gubert to support Amendment No. 56.

Mr GUBERT (*Italy*) said that the text of paragraph 4.1 was ambiguous because it seemed to support active euthanasia.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

I call Mr Dreyfus-Schmidt.

Mr DREYFUS-SCHMIDT (*France*) said that he would vote against the report as a whole. The Assembly should not hide from the facts of the situation.

THE PRESIDENT. – If this amendment is adopted, Amendment No. 57 will fall.

The committee is against Amendment No. 56.

The vote is open.

*Amendment No. 56 is rejected.*

We now come to Amendment No. 57, tabled by MM Renzo Gubert and Andrzej Wielowieyski, Ms Patrizia Paoletti Tangheroni, MM Giuseppe Gaburro, Egidijus Vareikis, Gabino Puche, Adolfo Fernández

Aguilar, Murat Mercan, Latchezar Toshev, Göran Lindblad and Julio Padilla, which is, in the draft resolution, paragraph 4.i, replace the term "may shorten his or her life" with the following words:

"might perhaps have some unintentional impact on the length of his or her life".

I call Mr Gubert to support Amendment No. 57.

Mr GUBERT (*Italy*) said that the amendment was designed to correct ambiguity over terminology in the report.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is against the amendment.

The vote is open.

*Amendment No. 57 is rejected.*

We now come to Amendment No. 4, tabled by Mr Kevin McNamara, on behalf of the Committee on Legal Affairs and Human Rights, which is, in the draft resolution, at the end of paragraph 4.i, add the following text:

"if, to relieve dying patients' suffering, doctors are obliged to use forms of treatment which may have the side-effect of shortening their lives, they must so inform those patients if they are conscious, or a relative if they are not. Doctors are not entitled to cause death deliberately;"

I call Mr Holovaty to support Amendment No. 4.

Mr HOLOVATY (*Ukraine*). – The Committee on Legal Affairs and Human Rights supports the amendment.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

I call Mr Dreyfus-Schmidt.

Mr DREYFUS-SCHMIDT (*France*) said that the amendment was confusing because it bore no relation to what had been said before.

THE PRESIDENT. – The committee is in favour of the amendment.

The vote is open.

*Amendment No. 4 is adopted.*

We now come to Amendment No. 12, tabled by MM Jean-Marie Geveaux and Georges Colombier, Ms Arlette Grosskost, MM Jean-Pierre Kucheida, Bernard Schreiner, Jean-Claude Mignon, André Schneider, Gilbert Meyer and Jean-Guy Branger, which is, in the draft resolution, paragraph 4.iv, after the words "the development of", insert the following words: "legal rules and".

I call Mr Geveaux to support Amendment No. 12.

Mr GEVEAUX (*France*) said that Amendment No. 12 showed the diversity of different situations. Legal rules would always override the rules of medical ethics.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Marty.

Mr MARTY (*Switzerland*) wished to draw attention to the fact that the law could not go into details of what was and what was not over-zealous prolongation of life.

THE PRESIDENT. – The committee is against the amendment.

The vote is open.

*Amendment No. 12 is rejected.*

THE PRESIDENT. – We come to Amendment No. 35, tabled by MM Kevin McNamara, Thomas Cox, Eduard Lintner, Sir Sydney Chapman, MM John Wilkinson and Syd Rapson, which is, in the draft resolution, paragraph 4.v, after the word “suicide”, insert the following words:

“and euthanasia”.

Amendments Nos. 35 and 44 are identical.

I call Mr McNamara to support his amendment.

Mr MCNAMARA (*United Kingdom*). – We are talking here about the question of suicide and having an active policy to prevent that from happening because we regard it as wrong. We also regard assisted suicide – namely, euthanasia – as wrong. If we are to have a programme actively to promote the prevention of one form of suicide, it should cover all forms of suicide. We therefore think that this is a logical inclusion.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Marty.

Mr MARTY (*Switzerland*) said that the prevention of euthanasia was an issue for individuals. A preventive suicide policy always had to be geared towards the individual.

THE PRESIDENT. – The committee is in favour of the amendment.

The vote is open.

*Amendments Nos. 35 and 44 are adopted.*

We come to Amendment No. 65, tabled by MM Wolfgang Wodarg, Klaus Werner Jonas, Eduard Lintner, Joachim Hörster and Bent Høie, which is, in the draft resolution, paragraph 5, delete the first sentence.

I call Mr Wodarg to support the amendment.

Mr WODARG (*Germany*) said that effective machinery had to be set up to remove the secrecy surrounding euthanasia.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Jurgens.

Mr JURGENS (*Netherlands*). – I am appalled by this amendment. We want to give patients rights and to make it quite clear what can happen and what cannot happen. If we delete that – if we do not want greater transparency and for patients to have rights and to have their positions known – we make the position weaker than it already is. That is very bad.

THE PRESIDENT. – The committee has not reached an opinion on the amendment.

Mr MARTY (*Switzerland*) said that the translation had implied that the committee had not discussed the subject, whereas it had.

THE PRESIDENT. – Thank you for your explanation. There was no discussion and the committee has not reached an opinion on the amendment.

The vote is open.

*Amendment No. 65 is rejected.*

We come to Amendment No. 58, tabled by MM Renzo Gubert, Andrzej Wielowieyski, Ms Patrizia Paoletti Tangheroni, MM Giuseppe Gaburro, Egidijus Vareikis, Gabino Puche, Adolfo Fernández Aguilar, Murat Mercan, Latchezar Toshev, Göran Lindblad and Julio Padilla, which is, in the draft resolution, paragraph 5, first sentence, after the word “euthanasia” add the following words:

“, whether legal or conducted.”

I call Mr Gubert to support the amendment.

Mr GUBERT (*Italy*) said that the report aimed to introduce euthanasia by the back door.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Dreyfus-Schmidt.

Mr DREYFUS-SCHMIDT (*France*) said that the amendment did not reflect the aim of the report.

THE PRESIDENT. – The committee has not formed an opinion.

The vote is open.

*Amendment No. 58 is rejected.*

We come to Amendment No. 45, tabled by Ms Helen D'Amato, MM Jeffrey Pullicino Orlando, Joseph Falzon, Georges Colombier, Ms Elsa Skarbøvik, MM Latchezar Toshev, Egidijus Vareikis, Murat Mercan, Luc van den Brande and Vlad Cubreacov, which is, in the draft resolution, paragraph 5, delete the words "in secret or in a legal vacuum, as highlighted by recent studies".

I call Ms D'Amato to support the amendment.

Ms D'AMATO (*Malta*). – the words "in secret or in a legal vacuum", as highlighted by recent studies, should be deleted. It should be made clear that the objective is to reduce the practising of euthanasia.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Jurgens.

Mr JURGENS (*Netherlands*). – The amendment tries to hide the fact that the practice of euthanasia is going on in secret and in a legal vacuum in many countries. One should not deny facts, and to do so would be very bad for the report. I therefore think that the amendment should not be accepted.

THE PRESIDENT. – If this amendment is adopted, amendment No. 36 falls.

The committee is in favour of the amendment.

The vote is open.

*Amendment No. 45 is adopted.*

We come to Amendment No. 37, tabled by MM Kevin McNamara, Thomas Cox, Eduard Lintner, Sir Sydney Chapman, MM John Wilkinson and Syd Rapson, which is, in the draft resolution, paragraph 5, replace the words "and their rights should therefore be clearly established and effective machinery put in place to guarantee the exercise of and full respect for those rights." with the following words:

"Therefore, the protection of human dignity at every moment of life should be reaffirmed."

I call Mr McNamara to support the amendment.

Mr McNAMARA (*United Kingdom*). – This is a straightforward amendment that ensures that the principles contained in Article 2 of the Convention are present. The other matters that Mr Jurgens mentioned in his moving speech do not apply in terms of the Convention. In fact, in the Pretty case the points that he made were particularly disavowed by the court. This is a very important amendment that we should accept.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is in favour. If the amendment is accepted, Amendment No. 46 falls.

The vote is open.

*Amendment No. 37 is adopted.*

We come to Amendment No. 13, tabled by Mr Jean-Marie Geveaux, Mr Georges Colombier, Ms Arlette Grosskost, Mr Jean-Pierre Kucheida, Mr Bernard Schreiner, Mr Jean-Claude Mignon, Mr André Schneider, Mr Gilbert Meyer and Mr Jean-Guy Branger, which is, in the draft resolution, paragraph 5.ii, replace the words "the right of any patient capable of discernment" with the following words:

"the right of a patient when capable of expressing his or her will,".

I call Mr Geveaux to support the amendment.

Mr GEVEAUX (*France*) spoke in favour of his amendment.

THE PRESIDENT. – Thank you. I understand that Mr Marty wishes to propose an oral sub-amendment on behalf of the Social, Health and Family Affairs Committee. It is, in Amendment No. 13, replace the words “when capable” with the words

“capable of discernment and”.

The amendment would thus replace the words it mentions with the words:

“the right of a patient capable of discernment and of expressing his or her will”.

In my opinion, the oral sub-amendment meets the criteria of Rule 34.6 and can be considered unless ten or more members of the Assembly object.

Is there any objection to the oral sub-amendment being debated?

More than ten members object to considering the oral sub-amendment, therefore the Assembly cannot consider it.

Does anyone wish to speak against the amendment?

I call Mr Dreyfus-Schmidt.

Mr DREYFUS-SCHMIDT (*France*) spoke against Amendment No. 13.

THE PRESIDENT. – What is the opinion of the committee?

Mr MARTY (*Switzerland*) raised a point of order. The committee was in favour of the amendment, as amended by the oral sub-amendment.

THE PRESIDENT (Translation). – I asked whether the committee had an opinion about the amendment. The sub-amendment has been rejected. We cannot vote on the sub-amendment because more than ten members objected to its discussion. I ask again whether the committee has an opinion on the amendment.

Mr GLESENER (*Luxembourg*) said that the committee had not reached an opinion.

THE PRESIDENT. – The committee has no opinion.

The vote is open.

*Amendment No. 13 is rejected.*

We come to Amendment No. 66, tabled by MM Wolfgang Wodarg, Klaus Werner Jonas, Eduard Lintner, Joachim Hörster and Bent Høie, which is, in the draft resolution, paragraph 5.ii, after the words “aware of the facts, to”, insert the following words: “accept or”.

I call Mr Wodarg to support the amendment.

Mr WODARG (*Germany*) said that the amendments sought to emphasise that the patient had both the right to accept and the right to reject treatment.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee has not reached an opinion.

The vote is open.

*Amendment No. 66 is adopted.*

We come to Amendment No. 59, tabled by Mr Renzo Gubert, Mr Andrzej Wielowieyski, Ms Patrizia Paoletti Tangheroni, Mr Giuseppe Gaburro, Mr Egidijus Vareikis, Mr Gabino Puche, Mr Adolfo

Fernández Aguilar, Mr Murat Mercan, Mr Latchezar Toshev, Mr Göran Lindblad and Mr Julio Padilla, which is, in the draft resolution, at the end of paragraph 5.ii, add the following words:

“if it is particularly invasive and positive outcomes are very uncertain”.

I call Mr Gubert to support the amendment.

Mr GUBERT (*Italy*) said that the right to refuse was justified where the treatment was invasive and uncertain.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Jurgens.

Mr JURGENS (*Netherlands*). – Again, I am appalled. The patient's right at every moment of his life to refuse treatment is completely clear. I cannot be obliged to be treated. Yet this amendment would place a restriction on that right. That is completely unacceptable because I always have the right to refuse treatment.

THE PRESIDENT. – The committee has not reached an opinion.

The vote is open.

*Amendment No. 59 is rejected.*

We come to Amendment No. 5, tabled by Mr Kevin McNamara , on behalf of the Committee on Legal Affairs and Human Rights, which is, in the draft resolution, at the end of paragraph 5.ii, insert the following words:

“by the doctor; the doctor must explain to the patient the consequences of the refusal of treatment. He must fully record this in the patient's medical notes;”.

I call Mr Holovaty to support the amendment.

Mr HOLOVATY (*Ukraine*). – The Committee on Legal Affairs and Human Rights supports Mr McNamara's proposal.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is in favour.

The vote is open.

*Amendment No. 5 is adopted.*

We come to Amendment No. 26, tabled by Mr Pasquale Nessa, Mr Andrea Rigoni, Ms Patrizia Paoletti Tangheroni, Mr Renzo Gubert, Mr Gianpietro Scherini and Mr Giovanni Mauro, which is, in the draft resolution, replace paragraph 5.iii with the following sub-paragraph:

“the right of all adults to appoint a representative or to draw up advance directives in case they should one day be incapable of expressing their will. The representative's mandate or the advance directives would concern the person's wishes as regards the types of medical treatment to be maintained, limited or terminated. They may be revoked at any time;”.

If the amendment is adopted, Amendments Nos. 138, 14, 6 and 15 fall.

I call Mr Nessa to support the amendment.

Mr NESSA (*Italy*) spoke in favour of the amendment.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is against.

The vote is open.

*Amendment No. 26 is rejected.*

We come to Amendment No. 38, tabled by Mr Kevin McNamara, Mr Thomas Cox, Mr Eduard Lintner, Sir Sydney Chapman, Mr John Wilkinson and Mr Syd Rapson, which is, in the draft resolution, replace paragraph 5.iii with the following sub-paragraph:

“the right of every patient to designate a representative or to put down living wills or advance decisions for the case in which he or she should one day not be in a position to express his or her will. The mandate of the representative or the living wills or advance decisions relates to the patient’s will regarding the upholding, limiting or stopping of medical treatment. They may be revoked at any moment;”.

If the amendment is adopted, Amendments Nos. 14, 6 and 15 fall.

I call Mr McNamara to support the amendment.

Mr McNAMARA (*United Kingdom*). – The purpose of the draft resolution is specifically to give every patient the right to make a living will about how he or she should be treated in the event of their being unable to communicate their wishes. It relates to the patient’s will regarding upholding, limiting or stopping medical treatment. That is the patient’s right, as Mr Jurgens pointed out. It also provides for such a living will to be revoked at any time. That is also the patient’s right.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee has not reached an opinion.

The vote is open.

*Amendment No. 38 is adopted.*

We come to Amendment No. 60, tabled by Mr Renzo Gubert, Mr Andrzej Wielowieyski, Ms Patrizia Paoletti Tangheroni, Mr Giuseppe Gaburro, Mr Egidijus Vareikis, Mr Gabino Puche, Mr Adolfo Fernández Aguilar, Mr Murat Mercan, Mr Latchezar Toshev, Mr Göran Lindblad and Mr Julio Padilla, which is, in the draft resolution, at the end of paragraph 5.iii, add the following words:

“; such presumed or manifested will of patients or their representatives shall be null and void if it expresses the desire for the patients’ lives to be ended deliberately, either actively or by withdrawing normal treatment from them;”.

I call Mr Gubert to support the amendment.

Mr GUBERT (*Italy*) said that it was important to guard against euthanasia by the back door.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Jurgens.

Mr JURGENS (*Netherlands*). – The last phrase in the amendment reads, “either actively or by withdrawing normal treatment from them”. That is very peculiar. If I say beforehand in my will that I wish for such a thing to happen, that is my decision and nobody else’s. The amendment is therefore subversive.

THE PRESIDENT. – The committee has not reached an opinion.

The vote is open.

*Amendment No. 60 is rejected.*

THE PRESIDENT. – We come to Amendment No. 16, tabled by MM Jean-Marie Geveaux, Georges Colombier, Ms Arlette Grosskost, MM Jean-Pierre Kucheida, Bernard Schreiner, Jean-Claude Mignon, André Schneider, Gilbert Meyer and Jean-Guy Branger, which is, in the draft resolution, paragraph 5.iv, replace the words “independent second medical opinion” with the following words:

“opinion of a practitioner other than the doctor in attendance”.

I call Mr Geveaux to support the amendment.

Mr GEVEAUX (*France*) emphasised the importance of a second opinion.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Dreyfus-Schmidt.

Mr DREYFUS-SCHMIDT (*France*) said that it was not always possible to get a second opinion. The medical profession could be hierarchical.

THE PRESIDENT. – The committee is against the amendment.

The vote is open.

*Amendment No. 16 is rejected.*

We now come to Amendment No. 17, tabled by MM Jean-Marie Geveaux, Georges Colombier, Ms Arlette Grosskost, MM Jean-Pierre Kucheida, Bernard Schreiner, Jean-Claude Mignon, André Schneider, Gilbert Meyer and Jean-Guy Branger, which is, in the draft resolution, delete paragraph 5.v.

I call Mr Geveaux to support the amendment.

Mr GEVEAUX (*France*) saw no need for a separate organisation.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Dreyfus-Schmidt.

Mr DREYFUS-SCHMIDT (*France*) said that there was a need for a separate organisation.

THE PRESIDENT. – The committee is against the amendment.

The vote is open.

*Amendment No. 17 is rejected.*

We now come to Amendment No. 18, tabled by MM Jean-Marie Geveaux, Georges Colombier, Jean-Pierre Kucheida, Bernard Schreiner, Jean-Claude Mignon, André Schneider, Gilbert Meyer and Jean-Guy Branger, which is, in the draft resolution, replace paragraph 5.vi with the following subparagraph:

“the introduction, where they do not yet exist, of provisions and procedures guaranteeing, where the patient is in no condition to express his will, that his advance directives shall be heeded and the trusted person, the family, relations or friends and the medical and nursing staff shall be consulted These rules should stipulate that in all circumstances the final decision to limit or terminate treatment rests strictly with the doctors and that the decision must be recorded in a document accessible to all.”

I call Mr Geveaux to support the amendment.

Mr GEVEAUX (*France*) said that this amendment was to ensure that the patients will be respected and his family consulted.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Jurgens.

Mr JURGENS (*Netherlands*). – This amendment changes the gist of paragraph 5.vi, which concerns clear procedures on assistance at the end of life for medical and nursing staff. It concerns only the will of the patient, and it neglects those general procedures, which I think is a step backwards.

THE PRESIDENT. – The committee is against the amendment.

The vote is open.

*Amendment No. 18 is rejected.*

We come to Amendment No. 28, tabled by Mr Pasquale Nessa, Ms Patrizia Paoletti Tangheroni, MM Enrico Rizzi, Renzo Gubert, Gianpietro Scherini and Giovanni Mauro, which is, in the draft resolution, replace paragraph 6 with the following paragraphs:

“The Assembly, one of whose principal assignments is to secure the fundamental rights set out in the European Convention on Human Rights, being perfectly well aware that in the current situation and in view of the diversity of cultural and religious sensitivities in the member States, it is hardly possible to



recommend a universal model for all to follow, nevertheless recommends that the Committee of Ministers instructs a working group:

- i. set up or, if they exist already, reinforce palliative care units and, as far as possible, home care and other appropriate health facilities for the terminally ill;
- ii. promote or consolidate a comprehensive suicide prevention policy;
- iii. pay particular attention that the current social changes in many countries in Europe, such as the ageing of the population and increasing health costs, do not give rise to social or family pressure to seek assistance with suicide or to request euthanasia, undermining society's feeling of responsibility towards elderly and dependent persons.

The Assembly also recommends that the member states:

- i. analyse objectively and in depth the experience with the legislation introduced in the Netherlands and Belgium and the bills on the subject currently being discussed in other countries;
- ii. take the necessary steps to recognise and guarantee specific rights for patients at the end of life, i.e. right to information, patient's consent, representatives for medical matters, collegiate decisions by the medical profession, traceability of decisions and the right to decide what to do with one's person;
- iii. accurately define the responsibilities and procedures for discontinuing treatment where it will only secure a slight prolongation of life without any hope of survival and inflict unnecessary additional suffering on the patient;
- iv. promote public discussion so as to create the greatest possible transparency and accountability in an area at present too often subject to decisions taken by the medical and paramedical profession without any form of control."

I call Mr Nessa to support the amendment.

Mr NESSA (*Italy*) said that this was an extremely important amendment which provided for a different decision on this most important matter.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Jurgens.

Mr JURGENS (*Netherlands*). – I assume that we are only discussing the first part of the amendment.

THE PRESIDENT. – We vote on Amendment No. 28 as a whole. A two-thirds majority is required.

Mr JURGENS (*Netherlands*). – That is a possibility. The first part is a normal resolution, while the second part is a recommendation, which requires a two-thirds majority. I wonder whether I should discuss only the first part or the second part too.

THE PRESIDENT. – The first part requires a two-thirds majority.

Mr JURGENS (*Netherlands*). – You are making it difficult for me. At this stage, it is not fair that a draft resolution has been introduced five minutes before the end of the discussion, which would change the main gist of the report.

THE PRESIDENT. – I have checked the matter carefully. Everybody has the right to table amendments until 10.30 a.m. All the amendments were tabled in time, and I cannot discuss whether the procedure is fair or unfair.

Mr JURGENS (*Netherlands*). – I am not seeking your opinion; I am trying to give mine.

THE PRESIDENT. – No; a two-thirds majority is required.

The vote is open.

*Amendment No. 28 is rejected.*

We come to Amendment No. 39, tabled by MM Kevin Mcnamara, Thomas Cox, Eduard Lintner, Sir Sydney Chapman, MM John Wilkinson and Syd Rapson, which is, in the draft resolution, paragraph 6, replace the words "The Assembly, being perfectly well aware that in the current situation and in view of the

diversity of cultural and religious sensitivities in the member states, it is hardly possible to recommend a universal model for all to follow, nevertheless recommends that member states of the Council of Europe should:" with the following words:

"Notwithstanding the cultural and religious diversity that one notices in the different countries, the Council of Europe must act in such a way that always ensures the fundamental rights formulated in the European Convention on Human Rights and Fundamental Freedoms. The Assembly recommends that member states of the Council of Europe should:".

Amendment No. 31 falls if this amendment is adopted.

I call Mr McNamara to support the amendment.

Mr McNAMARA (*United Kingdom*). – The amendment is a more eloquent version of paragraph 6. It recognises the cultural and religious diversity of different countries, which is right and proper. Within the Council of Europe, however, we have certain fundamental rights and obligations, which we accept when we join the Council of Europe and sign up to the various conventions.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Jurgens.

Mr JURGENS (*Netherlands*). – Mr McNamara and I have an ongoing difference of opinion about the correct implementation of the European Convention on Human Rights. One cannot read the ECHR as a right to live and not to be killed by the government. Mr McNamara has said that the ECHR says something about that matter, but it says practically nothing.

THE PRESIDENT. – The committee has not reached an opinion.

The vote is open.

*Amendment No. 39 is rejected.*

We come to Amendment No. 61, tabled by Mr Renzo Gubert, Mr Andrzej Wielowieyski, Ms Patrizia Paoletti Tangheroni, Mr Giuseppe Gaburro, Mr Egidijus Vareikis; Mr Gabino Puche, Mr Adolfo Fernández Aguilar, Mr Murat Mercan, Mr Latchezar Toshev, Mr Göran Lindbland and Mr Julio Padilla, which is, in the draft resolution, paragraph 6, first sentence, replace the words "a universal model for all to follow" with the following words:

"universally valid arrangements for assisting patients at end of life".

I call Mr Gubert to support the amendment.

Mr GUBERT (*Italy*) said that this amendment went to freedom of choice. The proposers did not want this free choice to go as far as euthanasia.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Dreyfus-Schmidt.

Mr DREYFUS-SCHMIDT (*France*) said that the amendment assumed that there were universally agreed arrangements for the ending of life. This was not the case.

THE PRESIDENT. – The committee has not reached an opinion on the amendment.

The vote is open.

*Amendment No. 61 is rejected.*

We come to Amendment No. 47, tabled by Ms Helen D'Amato, Mr Jeffrey Pullicino Orlando, Mr Joseph Falzon, Mr Georges Colombier, Ms Elsa Skarbøvik, Mr Latchezar Toshev, Mr Egidijus Vareikis, Mr Murat Mercan, Mr Luc Van den Brande, Mr Vlad Cubreacov and Ms Marie-Louise Bemelmans-Videc, which is, in the draft resolution, paragraph 6.i, replace the words "and in depth the experience with the legislation introduced in the Netherlands and Belgium and the bills on the subject currently being discussed in other countries;" with the words:

“, in depth and critically, the experience with the legislation introduced in the Netherlands and Belgium and legislation in France and in other countries where euthanasia is not permitted;”.

I call Ms D'Amato to support the amendment.

Ms D'AMATO (*Malta*). – We have proposed these words and, if they are accepted, the remainder of the sentence would fall. We suggest this change because it is insufficient to examine all the cases where legislation permits euthanasia. We feel that other models must be examined.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

If the amendment is adopted, Amendment No. 7 will fall.

The committee has not reached an opinion on the amendment.

The vote is open.

*Amendment No. 47 is adopted.*

We come to Amendment No. 62, tabled by Mr Renzo Gubert, Mr Andrzej Wielowieyski, Ms Patrizia Paoletti Tangheroni, Mr Giuseppe Gaburro, Mr Egidijus Vareikis, Mr Gabino Puche, Mr Adolfo Fernández Aguilar, Mr Murat Mercan, Mr Latchezar Toshev, Mr Göran Lindbland and Mr Julio Padilla, which is, in the draft resolution, at the end of paragraph 6.i., add the following words:

“with a view to checking their compatibility with Recommendation 1418 (1999)”.

I call Mr Gubert to support the amendment.

Mr GUBERT (*Italy*).said we did not wish to have different standards for different countries.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Dreyfus-Schmidt.

Mr DREYFUS-SCHMIDT (*France*) said that this was asking for a study from the Belgium, Dutch and French experiences. He asked why reference was necessary to a position that was in the process of being replaced.

THE PRESIDENT. – The committee has not reached an opinion on the amendment.

The vote is open.

*Amendment No. 62 is rejected.*

We come to Amendment No. 40, tabled by Mr Kevin McNamara, Mr Thomas Cox, Mr Eduard Lintner, Sir Sydney Chapman, Mr John Wilkinson and Mr Syd Rapson, which is, in the draft resolution, delete paragraph 6.ii.

We are also considering the identical Amendment No. 48, tabled by Ms Helen D'Amato, Mr Jeffrey Pullicino Orlando, Mr Joseph Falzon, Mr Georges Colombier, Ms Elsa Skarbøvik, Mr Latchezar Toshev, Mr Egidijus Vareikis, Mr Murat Mercan, Mr Luc Van den Brande and Mr Vlad Cubreacov, which is, in the draft resolution, delete paragraph 6.ii.

I call Mr McNamara to support the amendments. If adopted, Amendments Nos. 20, 19, 21, 67 and 63 will fall.

Mr McNAMARA (*United Kingdom*). – I am speaking to this proposal because it contradicts the introductory paragraph, which instructs the state in what it should do, one way or another, about euthanasia. We are looking for an open debate on the issue.

THE PRESIDENT. – Does anyone wish to speak against the amendments? I call Mr Bindig.

Mr BINDIG (*Germany*). – I see no reason to delete this paragraph, which speaks about rights for patients. We should have the paragraph as it stands in the text.

THE PRESIDENT. – The committee has not reached an opinion on the amendments.

The vote is open.

*Amendments Nos. 40 and 48 are rejected.*

We come to Amendment No. 20, tabled by Mr Jean-Marie Geveaux, Mr Georges Colombier, Mr Jean-Pierre Kucheida, Mr Bernard Schreiner, Mr Jean-Claude Mignon, Mr André Schneider, Mr Gilbert Meyer, Mr Jean-Guy Branger and Ms Arlette Grosskost, which is, in the draft resolution, paragraph 6.ii, replace the words "representative for medical matters" with the following words:

"consultation of the advance directives, the trusted person, the family or close relatives and friends".

If the amendment is adopted, Amendment No. 19 falls.

I call Mr Geveaux to support the amendment.

Mr GEVEAUX (*France*) said that the idea was to replace consultation with medical personnel with a wider group of family before decisions were made.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Schmied.

Mr SCHMIED (*Switzerland*) said that what was being proposed was against the interests of the patient.

THE PRESIDENT. – The committee is against the amendment.

The vote is open.

*Amendment No. 20 is rejected.*

We come to Amendment No. 19, tabled by Mr Jean-Marie Geveaux, Mr Georges Colombier, Mr Jean-Pierre Kucheida, Mr Bernard Schreiner, Mr Jean-Claude Mignon, Mr André Schneider, Mr Gilbert Meyer, Mr Jean-Guy Branger and Ms Arlette Grosskost, which is, in the draft resolution paragraph 6.ii, replace the words "representatives for medical matters" with the following words: "trusted person".

I call Mr Geveaux to support the amendment.

Mr GEVEAUX (*France*) said that this amendment was along the lines of the previous amendment and was fully in line with French legislation.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Marty.

Mr MARTY (*Switzerland*) said that the wording of French legislation was not appropriate for all other countries,

THE PRESIDENT. – The committee is against the amendment.

The vote is open.

*Amendment No. 19 is rejected.*

We come to Amendment No. 21, tabled by Mr Jean-Marie Geveaux, Mr Georges Colombier, Mr Jean-Pierre Kucheida, Mr Bernard Schreiner, Mr Jean-Claude Mignon, Mr André Schneider, Mr Gilbert Meyer, Mr Jean-Guy Branger and Ms Arlette Grosskost, which is, in the draft resolution, paragraph 6.ii, replace the words "traceability of decisions and the right to decide what to do with one's person" with the following words:

"transparency of the procedure and traceability of the medical decision".

I call Mr Geveaux to support the amendment.

Mr GEVEAUX (*France*) said that the amendment sought to amend paragraph 6.2 and to clarify it.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Dreyfus-Schmidt.

Mr DREYFUS-SCHMIDT (*France*) said that the amendment sought to prohibit suicide, which was undesirable because suicide was a basic right.

THE PRESIDENT. – The committee is against the amendment.

The vote is open.

*Amendment No. 21 is rejected.*

We come to Amendment No. 67, tabled by MM Wolfgang Wodarg, Klaus Werner Jonas, Eduard Lintner, Joachim Hörster and Bent Høie, which is, in the draft resolution, paragraph 6.ii, replace the words “decide what to do with one’s person” with the following words:

“accept or decline the treatment proposed”.

I call Mr Wodarg to support the amendment.

Mr WODARG (*Germany*) said that the amendment was necessary because it was important to spell out the right to accept treatment as well as the right to refuse it.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Dreyfus-Schmidt.

Mr DREYFUS-SCHMIDT (*France*) said that he was against the amendment for the same reason as he had been against the previous amendment.

THE PRESIDENT. - The committee has not reached an opinion on the amendment.

The vote is open.

*Amendment No. 67 is adopted.*

We come to Amendment No. 63, tabled by Mr Renzo Gubert, Mr Andrzej Wielowieyski, Ms Patrizia Paoletti Tangheroni, Mr Giuseppe Gaburro, Mr Egidijus Vareikis, Mr Gabino Puche, Mr Adolfo Fernández Aguilar, Mr Murat Mercan, Mr Latchezar Toshev, Mr Göran Lindblad and Mr Julio Padilla, which is, in the draft resolution, at the end of paragraph 6.ii, add the following words:

“, without under any circumstances establishing a right or freedom deliberately to end one’s life or have it ended”.

I call Mr Gubert to support the amendment.

Mr GUBERT (*Italy*) said that the decision to end one’s life could not be taken rationally and therefore was not a right.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Jurgens.

Mr JURGENS (*Netherlands*). – Amendments that are tabled at the last moment are not well thought-out and are often inconsistent. The right or freedom deliberately to end one’s life is an existing right, as Mr Dreyfus-Schmidt has just said, and it is not opposed by anyone. The final words of the amendment are “or have it ended”. No one is in favour of the right to have life ended, so the first part of the amendment is wrong and the second part is not under discussion. The amendment should therefore be rejected.

THE PRESIDENT. – The committee has not reached an opinion on the amendment.

The vote is open.

*Amendment No. 63 is rejected.*

We come to Amendment No. 8, tabled by Mr Kevin McNamara, on behalf of the Committee on Legal Affairs and Human Rights, which is, in the draft resolution, after paragraph 6.ii, insert the following sub-paragraph:

“make an effort to determine the presumed wishes of patients who are no longer able to express their wishes, including through discussing the issue of advance decisions or through the appointment of a representative mandated by the patient to deal with medical questions (‘representative for medical matters’). When discussing advance decisions, member states should bear in mind the safeguards around these; advance decisions dealing with life-sustaining treatment should be in writing and properly signed and witnessed;”.

I call Mr Holovaty to support the amendment on behalf Committee on Legal Affairs and Human Rights.

Mr HOLOVATY (*Ukraine*). – Our committee agrees with Mr McNamara's proposal to insert the sub-paragraph in paragraph 6.ii.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee has not reached an opinion on the amendment.

The vote is open.

*Amendment No. 8 is adopted.*

We come to Amendment No. 22, tabled by Mr Jean-Marie Geveaux, Mr Georges Colombier, Mr Jean-Pierre Kucheida, Mr Bernard Schreiner, Mr Jean-Claude Mignon, Mr André Schneider, Mr Gilbert Meyer, Mr Jean-Guy Branger and Ms Arlette Grosskost, which is, in the draft resolution, at the end of paragraph 6.iii, add the following words

“ensuring that palliative care culture is not confined to a few departments but disseminated throughout all hospital departments and relies on the development of mobile teams”.

I call Mr Geveaux to support the amendment.

Mr GEVEAUX (*France*) said that the amendment sought to ensure that palliative care culture was disseminated to all hospitals.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is in favour of the amendment.

The vote is open.

*Amendment No. 22 is adopted.*

We come to Amendment No. 9, tabled by Mr Kevin McNamara, on behalf of the Committee on Legal Affairs and Human Rights, which is, in the draft resolution, after paragraph 6.iii, insert the following sub-paragraph:

“draw up, when they do not already exist, specific recommendations on patients who, without being terminally ill, may request that all treatment be stopped or restricted and on intensive care of the newborn;”.

I call Mr Holovaty to support the amendment on behalf of the Committee on Legal Affairs and Human Rights.

Mr HOLOVATY (*Ukraine*). – As before, our committee agrees with the wording proposed by Mr McNamara.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

That is not the case.

The committee is in favour of the amendment.

The vote is open.

*Amendment No. 9 is adopted.*

We come to Amendment No. 68, tabled by MM Wolfgang Wodarg, Klaus Werner Jonas, Eduard Lintner, Joachim Hörster and Bent Høie, which is, in the draft resolution, paragraph 6.iv, after the word “suicide”, insert the following words: “and euthanasia”.

I call Mr Wodarg to support the amendment.

Mr WODARG (*Germany*) said that his party wanted to prevent suicide but also to prevent euthanasia from being legalised.

THE PRESIDENT (Translation). – Does anyone wish to speak against the amendment?

That is not the case.

The committee has not reached an opinion on the amendment.

The vote is open.

*Amendment No. 68 is adopted.*

We come to Amendment No. 41, tabled by Mr Kevin McNamara, Mr Thomas Cox, Mr Eduard Lintner, Sir Sydney Chapman, Mr John Wilkinson and Mr Syd Rapson, which is, in the draft resolution, delete paragraph 6.v.

Amendments Nos. 49 and 69 are identical. I call Mr McNamara to support the amendments.

Mr McNAMARA (*United Kingdom*). – The argument behind the amendment is self-evident. Given what Mr Jurgens said, I should like to draw attention to the decision by the European Court of Human Rights in the case of *Pretty v. United Kingdom*, which states: "The Court is not persuaded that the 'right to life' guaranteed in Article 2 can be interpreted as involving a negative aspect... nor can it create a right to self-determination in the sense of conferring on an individual the entitlement to choose death rather than life." The Court interprets the constitution and the Convention, not Mr Jurgens.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Dreyfus-Schmidt.

Mr DREYFUS-SCHMIDT (*France*) said that euthanasia should not be prevented from being decriminalised because of legal uncertainties.

THE PRESIDENT. – If Amendments Nos. 41, 49 and 69 are adopted, Amendments Nos. 23, 42, 50 and 64 fall.

The committee has not reached an opinion on Amendment No. 41.

The vote is open.

*Amendments Nos. 41, 49 and 69 are adopted.*

We come now to Amendment No. 70, tabled by MM Wolfgang Wodarg, Klaus Werner Jonas, Eduard Lintner, Joachim Hörster and Bent Høie, which is, in the draft resolution, delete paragraph 6.vi.

I call Mr Wodarg to support the amendment.

Mr WODARG (*Germany*) said that the amendment was necessary because of advances in palliative care.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Jurgens.

Mr JURGENS (*Netherlands*). – This is another amendment that seeks to restrict patients' rights and prevent practices inspired by respect for patients' rights and for consultations with patients' close relatives and friends. The Assembly is therefore restricting patients' rights, and I have never heard such a proposal before.

THE PRESIDENT. – If Amendment No. 70 is adopted, Amendment No. 24 falls.

The committee has not reached an opinion on Amendment No. 70.

The vote is open.

*Amendment No 70 is rejected.*

We come to Amendment No. 24, tabled by MM Jean-Marie Geveaux, Georges Colombier, Jean-Pierre Kucheida, Bernard Schreiner, Jean-Claude Mignon, André Schneider, Gilbert Meyer and Jean-Guy Branger and Ms Arlette Grosskost, which is, in the draft resolution, paragraph 6.vi, replace the French words "et infligeant" with the words: "et infligent" (English unchanged).

I call Mr Geveaux to support Amendment No. 24.

Mr GEVEAUX (*France*) said that the amendment was just a formality to correct a typographical error.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Jurgens.

Mr JURGENS (*Netherlands*). – Should I conclude from the amendment that those who have proposed it are in favour of shrouds of secrecy, legal uncertainties and outdated norms? I cannot imagine anyone being in favour of that.

THE PRESIDENT. – The committee is in favour of the amendment.

The vote is open.

*Amendment No. 24 is adopted.*

We come to Amendment No. 43, tabled by MM Kevin McNamara, Thomas Cox and Eduard Lintner, Sir Sydney Chapman, MM John Wilkinson and Syd Rapson, which is, in the draft resolution, paragraph 6.vii, replace the words "accountability in an area too often subject to decisions taken by the medical and paramedical profession without any form of control" with the following words:

"a higher level of information for the public about the possibilities of palliative care and the dangers linked with legalisation favouring euthanasia (e.g. abuse)".

I call Mr McNamara to support Amendment No. 43.

Mr McNAMARA (*United Kingdom*). – The amendment seeks to replace the words in paragraph 6.vii with a formulation that encompasses the contents of the paragraph while extending the whole argument to palliative care and the dangers linked with legalisation favouring euthanasia. By that we mean encouraging Auntie Maggie to die quickly so that we can get the money from her will, and similar sorts of pressures.

THE PRESIDENT. – Does anyone wish to speak against the amendment? I call Mr Marty.

Mr MARTY (*Switzerland*) said that he was against the amendment because it did not allow proper respect for the democratic rights of member states.

THE PRESIDENT. – If this amendment is adopted, Amendment Nos. 25 and 71 will fall.

The committee has not reached an opinion on the amendment.

The vote is open.

*Amendment No. 43 is adopted.*

We will now vote on the draft resolution, as amended.

Mr MARTY (*Switzerland*) asked the President to be allowed a chance to speak.

THE PRESIDENT. – According to the rules, when the votes on the amendments have taken place, we vote on the whole of the draft resolution. The rapporteur has had two opportunities to give his opinion. I want everyone, even the rapporteurs, to respect the rules of the Assembly.

We shall proceed to vote on the draft resolution, as amended.

The vote is open.

*The draft resolution in Document 10455, as amended, is rejected.*



**5. Election of a judge to the European Court of Human Rights**

THE PRESIDENT. – I must remind you that the vote is in progress to elect a judge to the European Court of Human Rights. The poll will close at 1.30 p.m. Those who have not yet voted may still do so by going to the area behind the President's chair.

The counting of the votes will take place under the supervision of the tellers nominated at the beginning of the sitting. I invite them to go to Room 1087. The results of the election will be announced at the start of this afternoon's sitting.

**6. Date, time and orders of the day of the next sitting**

THE PRESIDENT. – I propose that the Assembly hold its next public sitting this afternoon at 3 p.m. with the following orders of the day which were approved earlier.

Are there any objections? That is not the case.

The orders of the day of the next sitting are therefore agreed.

The sitting is closed.

*(The sitting was closed at 1.15 p.m.)*

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Presentation by Mr Holovaty of Opinion, Document 10495, on behalf of the Committee on Legal Affairs and Human Rights

Personal statement by Mr McNamara

*Speakers:*

Ms Err (Luxembourg)  
 Mr Lintner (Germany)  
 Mr Dees (Netherlands)  
 Baroness Knight (United Kingdom)  
 Mr Kox (Netherlands)  
 Mr Dreyfus-Schmidt (France)  
 Mr Rigoni (Italy)  
 Mr Jurgens (Netherlands)  
 Mr Davern (Ireland)  
 Mr Colombier (France)  
 Mr Grebennikov (Russian Federation)  
 Mr Rochebloine (France)  
 Mr Czinege (Hungary)  
 Mr Eörsi (Hungary)  
 Mr Geveaux (France)  
 Mr Huss (Luxembourg)  
 Mr Fedorov (Russian Federation)  
 Mr Wodarg (Germany)  
 Ms Vermot-Mangold (Switzerland)  
 Ms Gonzalez-Carillo (Observer from Mexico)

*Amendments Nos. 1, 51, 2, 10, 53, 30, 27, 54, 31, 32, 55, 3, 34, 4, 35, 44, 45, 37, 66, 5, 38, 67, 8, 9, 68, 41, 49, 69, 24 and 43 adopted.*

*Draft resolution contained in Document 10455, as amended, rejected.*

5. Election of a judge to the European Court of Human Rights
6. Date, time and orders of the day of the next sitting.