**Appendix II**

 National Commission of Control and

Evaluation of the Law of 16 March 2009 on

Euthanasia and assisted suicide

First report for the attention of the Chamber of Deputies

(Years 2009 and 2010)

SECTION 2

DESCRIPTION AND EVALUATION OF THE APPLICATION

OF THE LAW

**The functioning of the Commission**

From May to July 2009, the Commission met on a weekly basis in order to prepare and finalize as soon as possible the official documents provided for by law, such as:

Demand for euthanasia and assisted suicide;

The two forms for the official declaration of euthanasia for physicians (either on the basis of a written request or on the basis of end-of-life provisions);

End-of-life provisions for a person of full age who can write, date and sign;

End-of-life provisions for a capable adult who is permanently physically unable to write, date and sign.

At the end of July 2009, the Commission adopted these documents, which were subsequently published and made available to the public via the health portal (http://www.sante.public.lu/fr/sante-fil-de-la- life / end-of-life / index.html).

Subsequently, the Commission met once a month. The sessions were devoted to the examination of the official statements of euthanasia received. In no case were there any doubts, and in each case the Commission was able to take a unanimous decision to accept it purely and simply. Regarding the statutory quorum of seven members out of a total of nine, necessary to make a decision, it is sometimes difficult to fix a meeting in the absence of alternate members, not provided for by law.

The Commission, after extensive discussions, considered that death due to euthanasia should be considered as a natural death.

**The causes of euthanasia**

All the conditions that gave rise to euthanasia were, at the time of the euthanasia, in accordance with legal, incurable and serious requirements.

In all cases of euthanasia, the affections were cancers.

**The age of the patients and the place where euthanasia was performed**

The number of patients does not permit a statistical evaluation of the age and place variables. It is only noted that no euthanasia was performed in a nursing home or an integrated center. Thus, all cases of euthanasia took place either in the patient's home or in a hospital.

**The nature of suffering**

In most patients, several types of suffering, both physical and psychic, were present simultaneously. The sufferings have all been described as constant and unbearable.

The question of the assessment of the unbearable nature and without prospect of improvement of suffering has been the subject of repeated discussions within the Commission.

A consensus emerged that the constant and unbearable nature of suffering must be the subject of a thorough consultation between the patient and the physician.

**The manner in which euthanasia was practiced and the products used**

In all cases, death was obtained by initially inducing deep unconsciousness by general anesthesia by injection of Thiopental by intravenous administration and then by intravenous injection of a neuromuscular paralytic causing death by cardiorespiratory arrest.

The mention of a calm and rapid death in a few minutes, obtained by this technique, is reported by the doctors in the statement.

No euthanasia was performed by the administration of morphine alone or in combination with a sedative.

No suicide assistance was reported.

**Physicians consulted**

No breach of the legal requirements has been noted.

**The procedure followed by the doctor**

The procedure followed by the doctor, as provided for in point 7 of the registration document, has always been correct and in accordance with the law.

**The decisions of the Commission**

All declarations were accepted after examination of Part II of the official declaration and the Commission was not obliged to decide to lift the anonymity by opening section I.

There was no evidence of doubt as to the formal and substantive requirements of the Act, and no case was referred to the medical college or the court.

**SECTION 3 RECOMMENDATIONS OF THE COMMISSION CONCERNING THE EXECUTION OF THE LAW**

**RECOMMENDATIONS**

1. Concerning the need for information. The Commission considers that a proper practice of euthanasia in the respect of the law requires above all an effort of information, both towards the citizens and the doctors. In addition to the information disseminated on the health portal

and the information brochure for the interested public, the Commission considers it necessary to issue a supplementary information brochure for the medical profession.

2. Concerning the availability of products necessary for euthanasia in the patient's home. The Commission considers it essential to ensure that medicines necessary for euthanasia are available on the prescription of the doctor concerned.

3. Concerning the training of doctors. The Commission considers that the medical curriculum should include training in preparing future doctors for the problems of end-of-life management, including the practice of palliative care and the proper implementation of euthanasia. Similarly, the various postgraduate courses and continuing education activities should be encouraged to include such training.

4. Concerning end-of-life provisions. Article 4 of the law states in the corresponding paragraph that "Any physician treating a patient at the end of his life or a patient in a medical situation without a means of communication is obliged to inform the National Commission of Control and Inspection, Evaluation of end-of-life arrangements in the patient's name. "The existence of end-of-life provisions should be systematically requested when a patient is admitted to a hospital or long-stay facility, respectively.

5. Concerning possible amendments to the law of 16 March 2009 on euthanasia and assistance to suicide. The Commission considers that the application of the law has not given rise to major difficulties or abuses which would require legislative initiatives.

**Second Report – Years 2011 and 2012**

**Description and evaluation of the application of the law**

**The functioning of the Commission**

The committee met at the rate of receipt of the official declarations of euthanasia.

**The causes of euthanasia**

All the affections which gave rise to euthanasia, at the time of the euthanasia, conformed to the legal, incurable and grave requirements.

In eleven cases of euthanasia, the affections were cancers and, in three cases, the affections were of neuro-degenerative nature.

**The age of the patients and the place where euthanasia was practiced**

The number of patients concerned does not permit a statistical evaluation with regard to the variables "age" and "place". It was noted that eight recorded euthanasia were performed in hospitals, three in the patients' home and three in a nursing home or an integrated center.

**The nature of suffering**

In most patients, several types of suffering, both physical and psychic, were present simultaneously. The sufferings have all been described as constant and unbearable. The Committee noted that this constant and intolerable character of suffering was regularly the subject of a thorough consultation between the patient and the physician and that the physician always arrived "... is convinced that the patient's request is And that in the eyes of the patient there is no other acceptable solution in his situation ... "

**The manner in which euthanasia was practiced and the products used**

One case of suicide assistance was reported, and death was obtained by barbiturate administered orally.

In the case of euthanasia proper, the physician injected thiopental intravenously followed by a neuromuscular paralytic causing death by cardio-respiratory arrest.

No euthanasia was performed by the administration of morphine alone or in combination with a sedative.

**Physicians consulted**

No breach of statutory requirements was found.

**The procedure followed by the physician**

The procedure followed by the physician, as provided for in point 7 of the registration document, has always been correct and in accordance with the law.

**Complementary information from physicians**

Some doctors insisted on providing additional information. In this case, they stressed in each case the serene and human nature in which euthanasia was practiced.

**The decisions of the Commission**

All declarations were accepted after consideration of only part II of the official declaration. The Commission has never proceeded to the lifting of anonymity by opening section I.

There was no evidence that the formal and substantive requirements of the law were respected. For this reason, no file has been sent to the medical college or to the court.

**Recommendations of the Commission on the implementation of the law**

1. Concerning the need for information. The Committee considers that a proper practice of euthanasia in the respect of the law requires above all an efofrt of information, both vis-a-vis citizens and doctors. The Committee considers it necessary that the complete information (on all aspects of the law on euthanasia and assistance to suicide) of the population (citizens and doctors) be improved. In spite of the efforts made, the dissemination of information is only partial. As a result, better information is required, for example by a large multimedia companion.

2. Concerning the availability of products necessary for euthanasia. In order to ensure equal treatment for patients throughout the territory of the Grand Duchy, the Committee considers that there is a need to ensure better access to the necessary medicines for euthanasia.

3. Concerning the training of doctors. The Committee still considers that the curriculum for medical studies should include training in preparing future physicians to address the problems of end-of-life management, including the practice of palliative care and the proper implementation of euthanasia. The various cycles of postgraduate education and continuing education should be encouraged to include such training.

4. Concerning end-of-life provisions. Article 4 of the Act provides that "a physician treating a patient at the end of his life or a patient in a medical situation without a solution is obliged to inform the National Monitoring and Evaluation Commission End of life on behalf of the patient are registered there. " The question of the possible existence of end-of-life provisions should be systematically applied to the admission of a patient to a hospital or long-stay facility.

5. Concerning the refusal of a physician, on moral grounds, to practice euthanasia. In this type of situation, the patient, already seriously ill, is confronted with the problem of having to find another doctor who agrees to practice euthanasia. At this stage a valid therapeutic relationship is difficult to achieve and in practice the absence of such a relationship makes euthanasia very difficult to practice for many doctors. In order to guarantee better access to patients suffering from a serious and incurable disease, it would be desirable for the treating physician to inform his patient sufficiently upstream of his moral reservations with regard to euthanasia. The patient concerned would thus be in a position to decide eventually to be followed by two doctors, one of whom would accept to practice euthanasia.

6. Concerning possible amendments to the law of 16 March 2009 on euthanasia and assistance to suicide. The Committee considers that the application of the Act has not led to major difficulties or abuses which would necessitate legislative initiatives.

7. Concerning the quorum provided for by law. The law provides for the presence of seven members out of nine in total so that the commission can validly decide. It is sometimes difficult to fix a meeting because of the absence of alternate members whose existence is not provided for by law.

8. concerning the legal characterization of death. The Committee still considers that the death of an euthanasia should be regarded as a natural death.

**Third Report – Years 2013 and 2014**

**Description and evaluation of the application of the law**

**The functioning of the Commission**

The Commission met at the rate of receipt of official statements of euthanasia.

**The causes of euthanasia**

All the conditions that gave rise to euthanasia were, at the time of the euthanasia, in accordance with legal, incurable and serious requirements.

In 11 cases of euthanasia, the disorders were cancers, in three cases the affections were neurodegenerative and in one case it was a neurovascular disease.

**The age of the patients and the place where euthanasia was performed**

The number of patients concerned does not allow for a statistical evaluation of the variables "age" and "place". It was noted that 11 registered euthanasias were performed in hospitals, one in the patient's home and three in a nursing home or an integrated center.

**The nature of suffering**

In most patients, several types of suffering, both physical and psychic, were present simultaneously. The suffering has all been described as constant, unbearable and without prospect of improvement.

While some objective factors may contribute to the assessment of the constant, intolerable and unsupportive character of suffering, it is largely subjective and depends on the patient's personality, conceptions and values own. The Commission noted that this constant and unbearable character of suffering was regularly the subject of an in-depth consultation at the special colloquium between the patient and the doctor.

**The manner in which euthanasia was practiced and the products used**

No assistance for suicide has been reported.

In all cases the doctor injected intravenous Thiopental followed by a neuromuscular paralytic causing death by cardiorespiratory arrest.

No euthanasia was performed by the administration of morphine alone or in combination with a sedative.

**Physicians consulted**

No breach of the legal requirements has been noted.

**The procedure followed by the doctor**

The procedure followed by the doctor, as provided for in point 7 of the registration document, has always been correct and in accordance with the law.

The Commission received a request for prior opinion on euthanasia. It considered that the intervention of a prior opinion was neither foreseen nor desired by the legislature. It would be likely to disrupt the singular colloquium between patient and physician, a singular colloquium that is at the heart of therapeutic decisions. In addition, this may significantly slow down the response to patient demand.**Further information from doctors**

Some physicians were keen to provide additional information. In this case, they stressed in each case the serene and human character in which euthanasia was practiced.

**The decisions of the Commission**

All declarations were accepted after consideration of only part II of the Official statement. The Commission has never lifted anonymity by opening section I.

No statement contained any evidence that the formal and substantive requirements of the Act were not met. This is the reason why no file has been sent to the medical college or the court.

**Section III - COMMISSION RECOMMENDATIONS CONCERNING THE IMPLEMENTATION OF THE LAW**

1. Concerning the need for information. The Commission continues to believe that a proper practice of euthanasia in compliance with the law requires above all an effort to inform both citizens and doctors. The Commission considers it necessary to improve the information (on all aspects of the law on euthanasia and assistance to suicide) of the population (citizens and doctors). Indeed, despite the efforts made, the dissemination of information is still only partial. As a result, better information is needed, for example by a large multimedia campaign. Luxembourg could consider the introduction of a medical-ethics consultation by a doctor who could inform individuals who wish to do so individually and concretely about their particular case, as is already the case in Belgium.

2. Concerning the availability of products necessary for euthanasia. In order to ensure equal treatment for patients throughout the territory of the Grand Duchy, the Commission considers that there is a need to ensure better access to medicines necessary for euthanasia. On this point, the Commission has not seen any improvement since its last report.

3. Concerning the training of doctors. The Commission is pleased to note that the curriculum for medical studies at the University of Luxembourg includes training in preparing future doctors for the problems of end-of-life management, including the practice of palliative care and the implementation Of euthanasia or assisted suicide. However, the Commission considers that the various cycles of postgraduate education and the continuing education activities of doctors and paramedics should also include such training. Another way would be to introduce specific training targeted at euthanasia for doctors who are particularly interested in the issue of end-of-life management. These doctors would be available to their colleagues to offer, if necessary, a consultation with an independent doctor well trained on these issues. This model exists in Belgium (EOL and LEIF doctors) and in the Netherlands (SCEN doctors).

4. Concerning the end of life provisions. Article 4 of the Act states that "any physician treating an end-of-life patient or a patient in a dead-end medical situation shall be required to inform the National Commission for Monitoring and Evaluation whether any provisions End of life on behalf of the patient are registered there. " For the correct application of the law, the question of the

possible existence of end-of-life provisions should be systematically applied to the admission of a patient to a hospital or long-stay facility. The Act provides that the Commission shall "request once every five years, from the date of the application for registration, confirmation of the will of the declarant" (Article 4 (2)). In the Commission's view, end-of-life provisions are, by law, valid until revocation by their author. The law obliges the Commission to remind the perpetrators of an end-of-life provision every five years of its existence. In this respect, the Commission asks the person who has registered end-of-life provisions to confirm that they have been notified, whilst informing him that failure to reply on his part does not render the end of life provisions obsolete.

5. Concerning the refusal of a doctor, for moral reason, to practice euthanasia. In this type of situation, the patient, already seriously ill, is confronted with the problem of having to find another doctor who agrees to practice euthanasia. At this stage, a valid therapeutic relationship is hardly feasible and, in fact, the absence of such a relationship makes euthanasia very difficult for many physicians to practice. If the doctor refuses to practice euthanasia, he has a legal obligation to inform the patient in due time: according to the law, "if the physician consulted refuses to perform euthanasia or assisted suicide, Inform the patient and / or trusted person, if any, within 24 hours, stating the reason for refusal "(clause 15). In order to ensure that patients with severe and incurable euthanasia have access to improved euthanasia, it would be desirable for the treating physician to widely inform his patient of his moral reservations with regard to euthanasia. The patient concerned would thus be able to decide to be followed by two doctors, one of whom would agree to practice euthanasia.

6. Concerning the law of 24 July 2014 on the rights and obligations of patients. Article 12 (5) of the Law of 24 July provides: "Unless the contrary is expressed by the patient, the appointment of a person of trust in accordance with this Article shall apply, in the end-of-life situation, As a confidential person within the meaning of the law of 16 March 2009 on palliative care, the advance directive and end-of-life support. The person designated as a trusted end-of-life person in accordance with the provisions of the aforementioned law of 16 March 2009 may, unless the patient otherwise wishes, act as a trusted person under the provisions of this Law ". The Commission observes that no reference is made here to the Act of 16 March 2009 on euthanasia and assistance to suicide, Article 4 (1) of which reads as follows: "In the end-of-life provisions, the declarant May designate a person of high confidence who informs the attending physician of the will of the declarant according to his latest statements to him ". The Commission recommends that the 2014 Law on the Rights and Obligations of Patients be amended to include the mission of the trusted person defined under the Law on Euthanasia and Assisted Suicide.

7. Concerning possible amendments to the law of 16 March 2009 on euthanasia and assistance to suicide. The Commission considers that the application of the law has not given rise to major difficulties or abuses which would require legislative initiatives.

8. Concerning the quorum provided for by law. The law provides for the presence of seven members out of nine in total so that the Commission can validly decide. It is sometimes difficult to fix a meeting because there are no alternate members whose existence is not provided for by law.

9. Concerning the legal classification of death. The Commission still considers that death following an act of euthanasia or assisted suicide should be considered as a natural death.