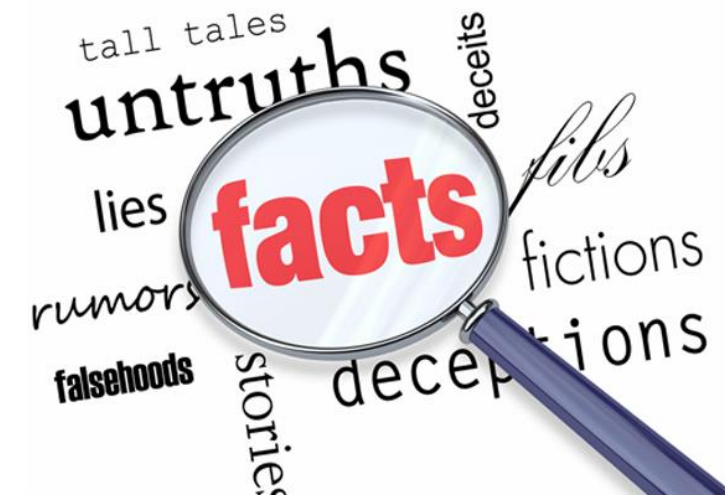


Physician-assisted Dying in the Netherlands: Results of the 4th National Evaluation Study

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Overview

- Introduction
- Legal aspects
- Empirical findings
- Current debates and future prospects



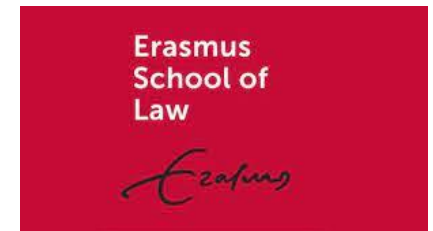
Development of palliative and end-of-life care

1973 -1986	Postma case, Wertheim case, Schoonheim case
1985	State Commission: euthanasia should be allowed
<i>1990/1991</i>	<i>1st nationwide study on practice of end-of-life decision making</i>
1993	Review procedure (review by public prosecutor)
1993-1995	Chabot case (psychiatric suffering may qualify)
<i>1995/1997</i>	<i>2nd nationwide study</i>
1998	Review by multidisciplinary review committees
1998-2002	Brongersma case ('tired of life' does not qualify)
<i>2001/2003</i>	<i>3rd nationwide study, European study</i>
2002	Euthanasia law
<i>2005/7 – 2010/12 – 2015/17</i>	<i>4th + 5th + 6th nationwide study including scientific evaluations of the law</i>
2016	Schnabel committee: do not extend law re being 'tired of life'
2017	Heringa case (assistance in dying by family)
<i>2021/2023</i>	<i>7rd nationwide study including 4th evaluation of the law</i>
2022	Dementia case (first legal prosecution)

Fourth evaluation of the euthanasia law



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Fourth evaluation of the euthanasia law

AIM: to examine whether the goals of the law are achieved

- How are the provisions of the law applied in practice?
- How is the practice of end-of-life decision making developing?
- What are current debates or challenges?

Focus on 2017 – 2022



Fourth evaluation of the euthanasia law

Studies within the evaluation:

- Legal study
- Empirical study
 - Death certificate study (n = 3718)
 - Physician survey (n = 746) + interviews (n = 15)
 - General public survey (n = 1097) + interviews (n = 15)
- Study of the review committees
- Ethical reflection



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Dutch Penal Code

Section 293 :

1. He who intentionally ends the life of another person at his express and earnest desire shall be punished by imprisonment for a term not exceeding 12 years or a fifth-category fine.
2. The offence referred to in the first paragraph is not punishable if it is committed by a doctor who, in doing so, complies with the due care requirements referred to in (...) the Act on the Termination of Life at Request and Assisted Suicide (Review procedures) and notifies the municipal coroner of this (...).



Dutch Penal Code

Section 294:

1. (...)
2. He who intentionally assists another person in committing suicide or provides him with the means to do so shall, if the suicide follows, be punished with imprisonment of not more than three years or a fine of the fourth category. Section 293 (2) shall apply mutatis mutandis.



Termination of Life on Request and Assisted Suicide (review procedures) act (2002)

In order to comply with the due care criteria referred to in section 293 (2) Penal Code Code, the physician must:

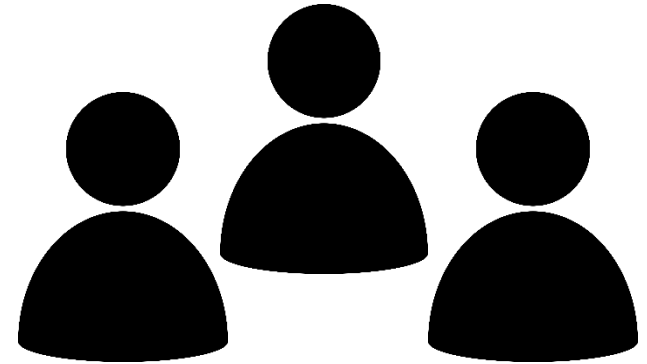
- a. Be satisfied that the patient's request is **voluntary and well considered**;
- b. Be satisfied that the patient's **suffering is unbearable**, with no prospect of improvement;
- c. Have **informed** the patient about his situation and his prognosis;
- d. Have come to the conclusion, together with the patient, that there is **no reasonable alternative** in the patient's situation;
- e. Have **consulted** at least one other, **independent physician**, who must see the patient and give a written opinion on whether the due care criteria set out in (a) to (d) have been fulfilled;
- f. Have exercised **due medical care and attention** in terminating the patient's life or assisting in his suicide.

Review procedure

A Review Committee (physician, ethicist, lawyer) assesses in every reported case whether physician-assisted dying has been carried out in accordance with the due care criteria.

If **in accordance**: physician is informed, case is closed

If **NOT in accordance**: physician, Public Prosecution service and Health Inspectorate are informed



Review procedure

The public prosecutor's office is not obliged to instigate criminal proceedings in these cases

- **In general they only do so in case of potential violations of the 'substantive due care criteria':**
 - a. voluntary and well-considered request
 - b. unbearable suffering without prospect of improvement
- Verdicts of the review committees that a physician had not acted in accordance with the criteria of due care rarely lead to formal follow-up action



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Definitions

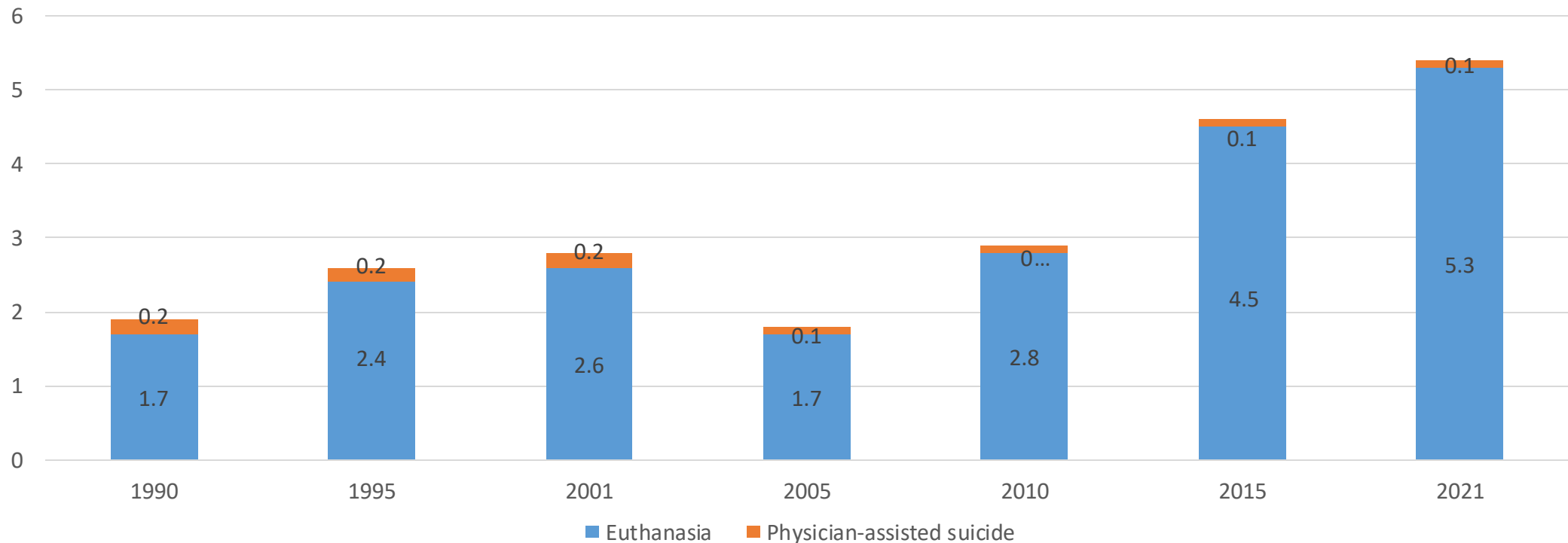
Euthanasia

- Death is the result of the intentional administration of lethal medication by a physician upon the patient's explicit request

Physician-assisted suicide

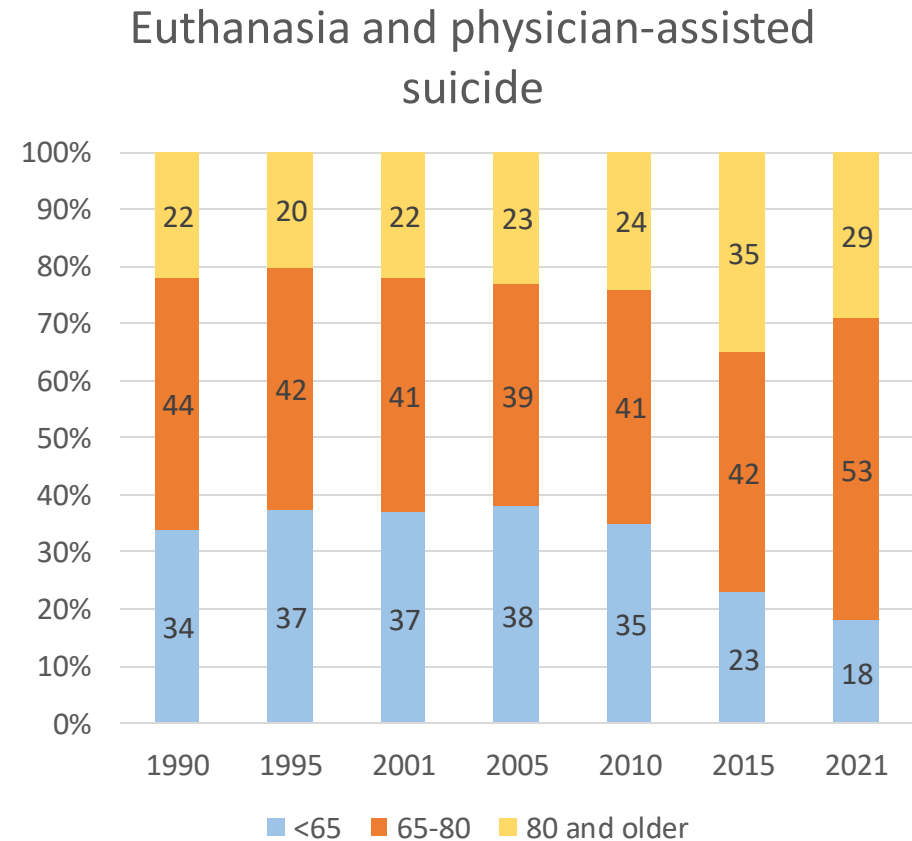
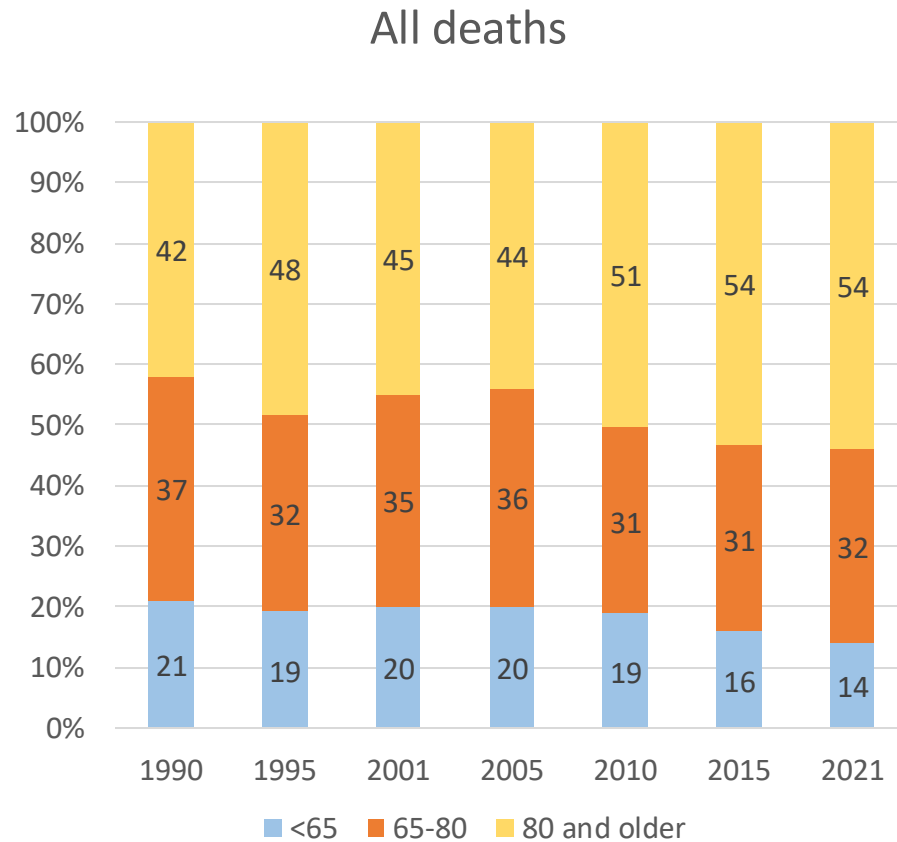
- Death is the result of self-administered lethal medication prescribed or supplied by a physician upon the patient's explicit request

Frequency of euthanasia and physician-assisted suicide (% of all deaths)



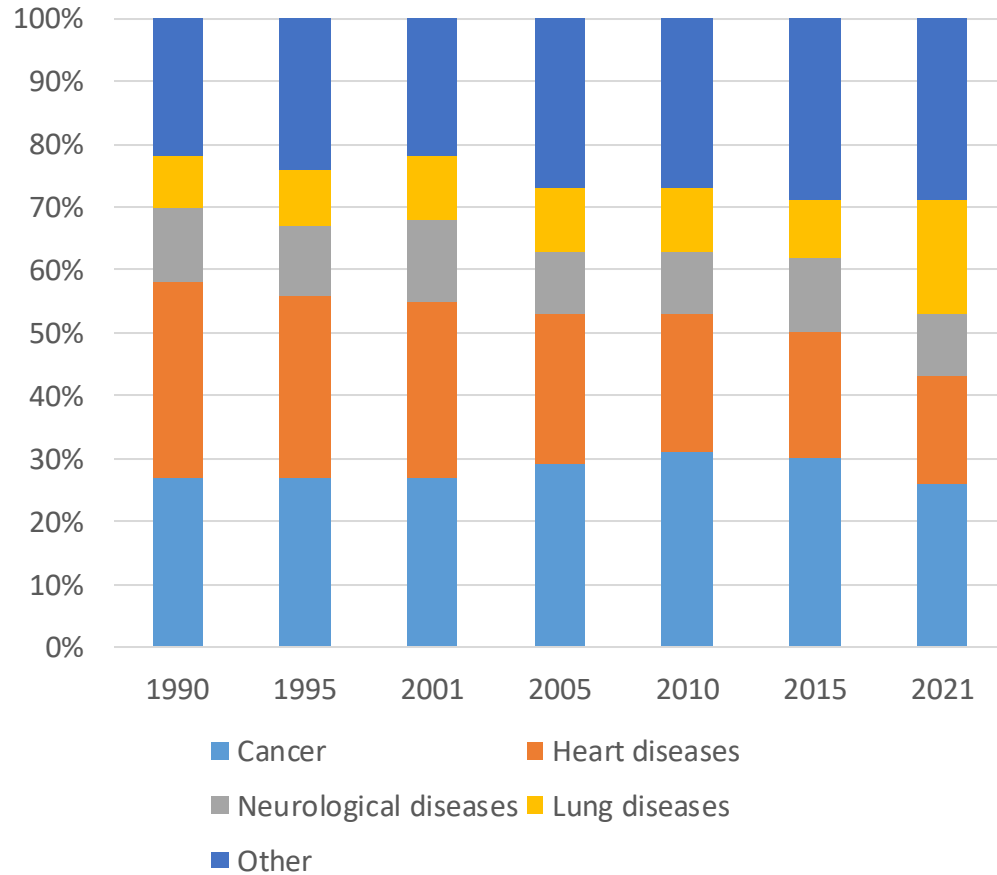
Source: death certificate studies

30 years of end-of-life decisions in the Netherlands - Age -

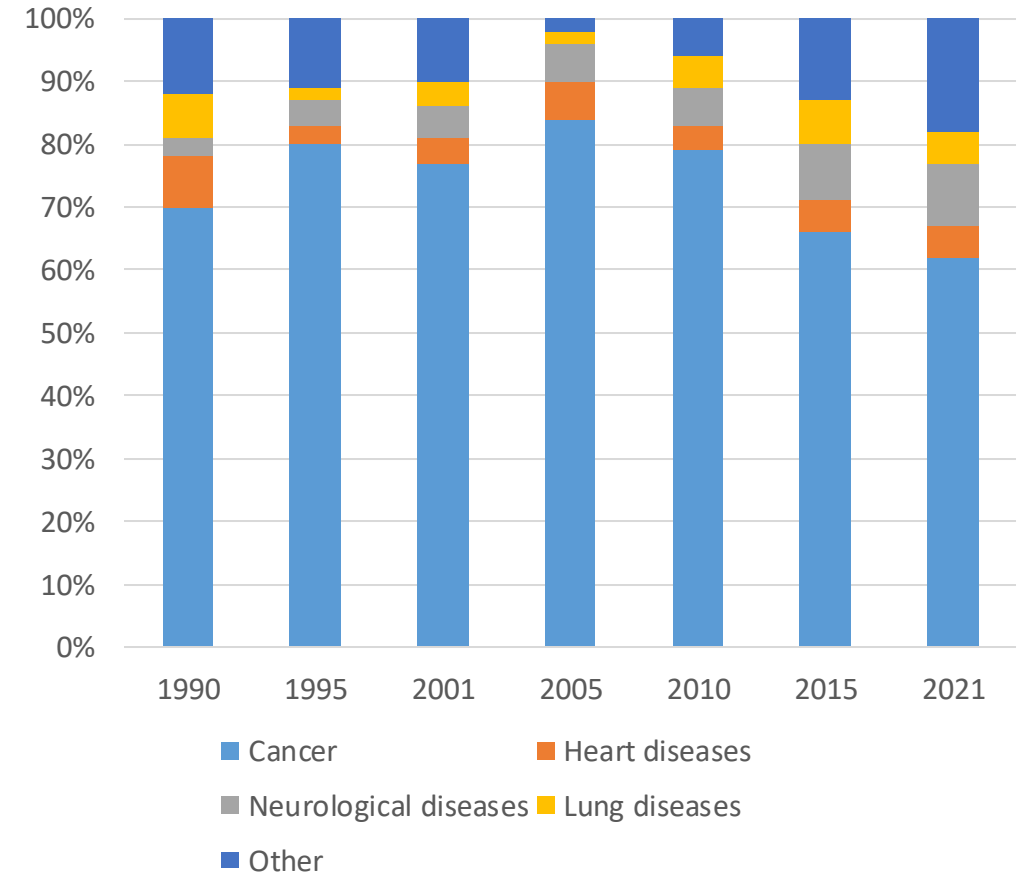


30 years of end-of-life decisions in the Netherlands - Cause of death -

All deaths

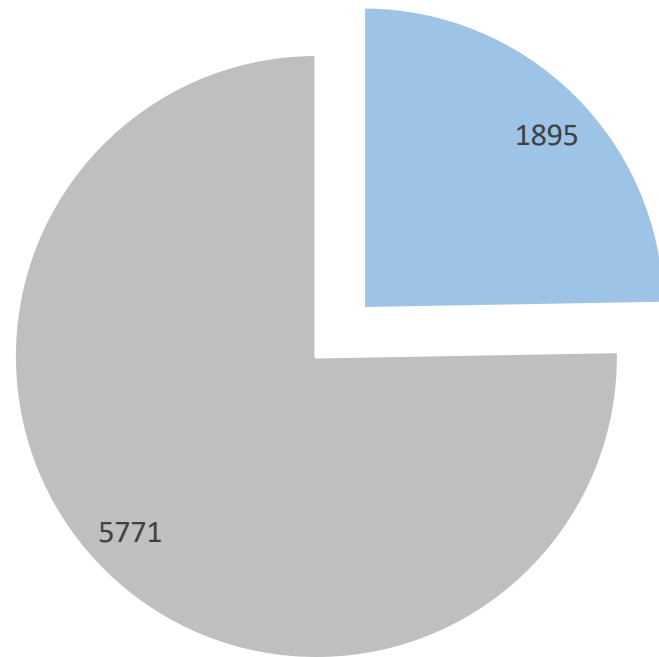


Euthanasia and physician-assisted suicide



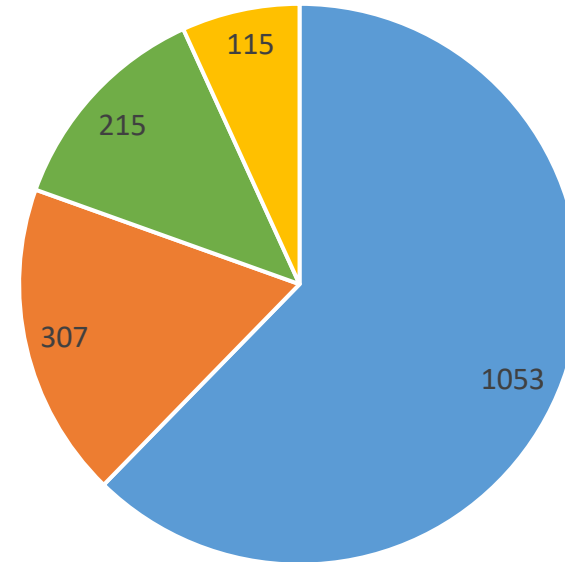
Looking at the 'Other category' in 2021

Main diagnosis in reported cases



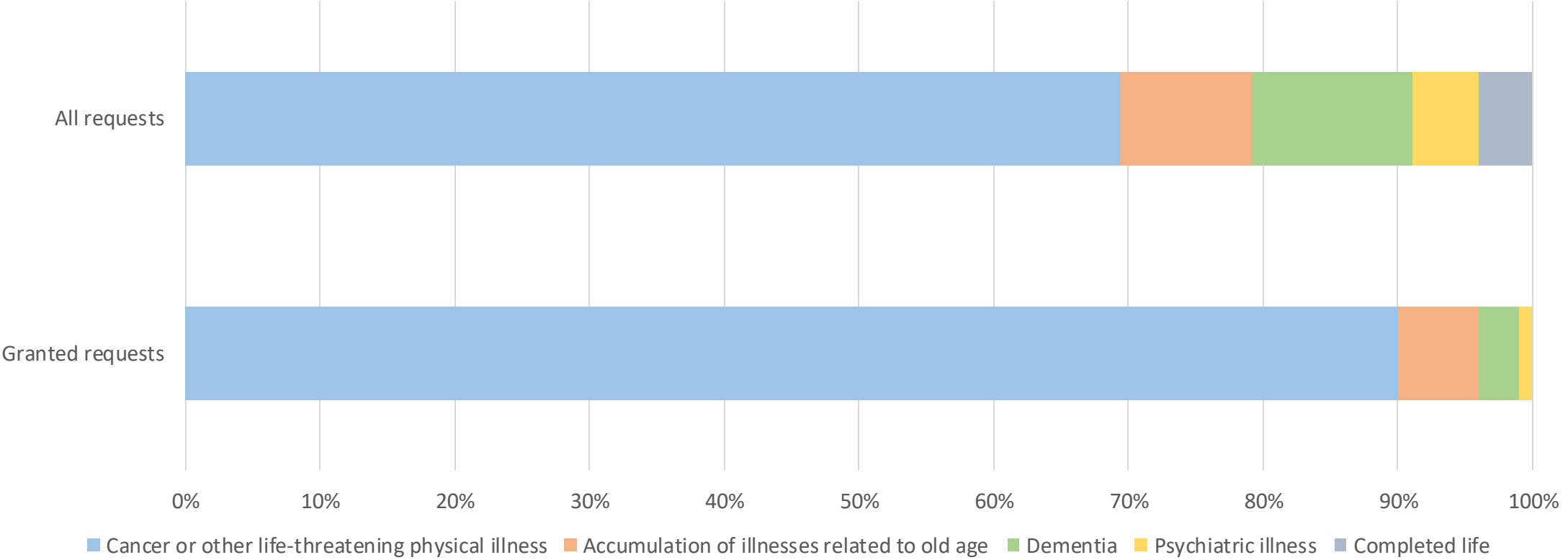
■ Other ■ Cancer or heart or lung or neurological disease

'Other' main diagnoses in reported cases



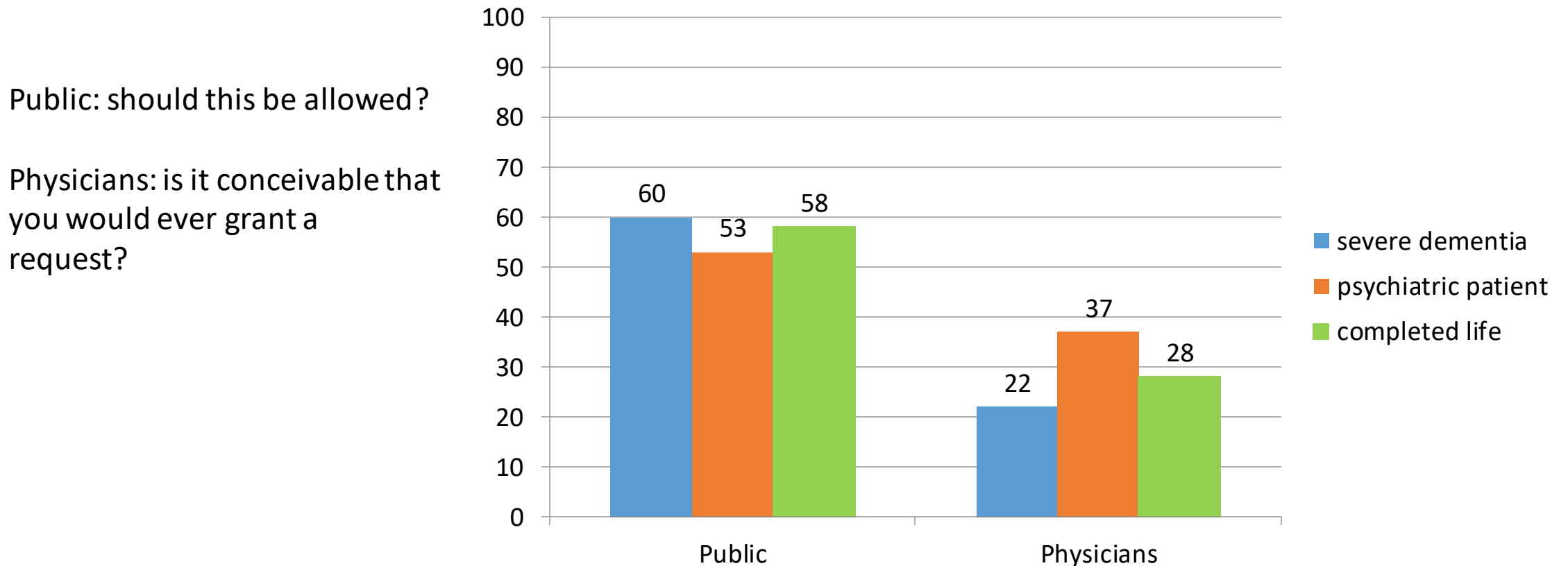
■ Combination of diseases ■ Accumulation of old age illnesses
■ Dementia ■ Psychiatric illness

Illness underlying suffering for all requests and for granted requests



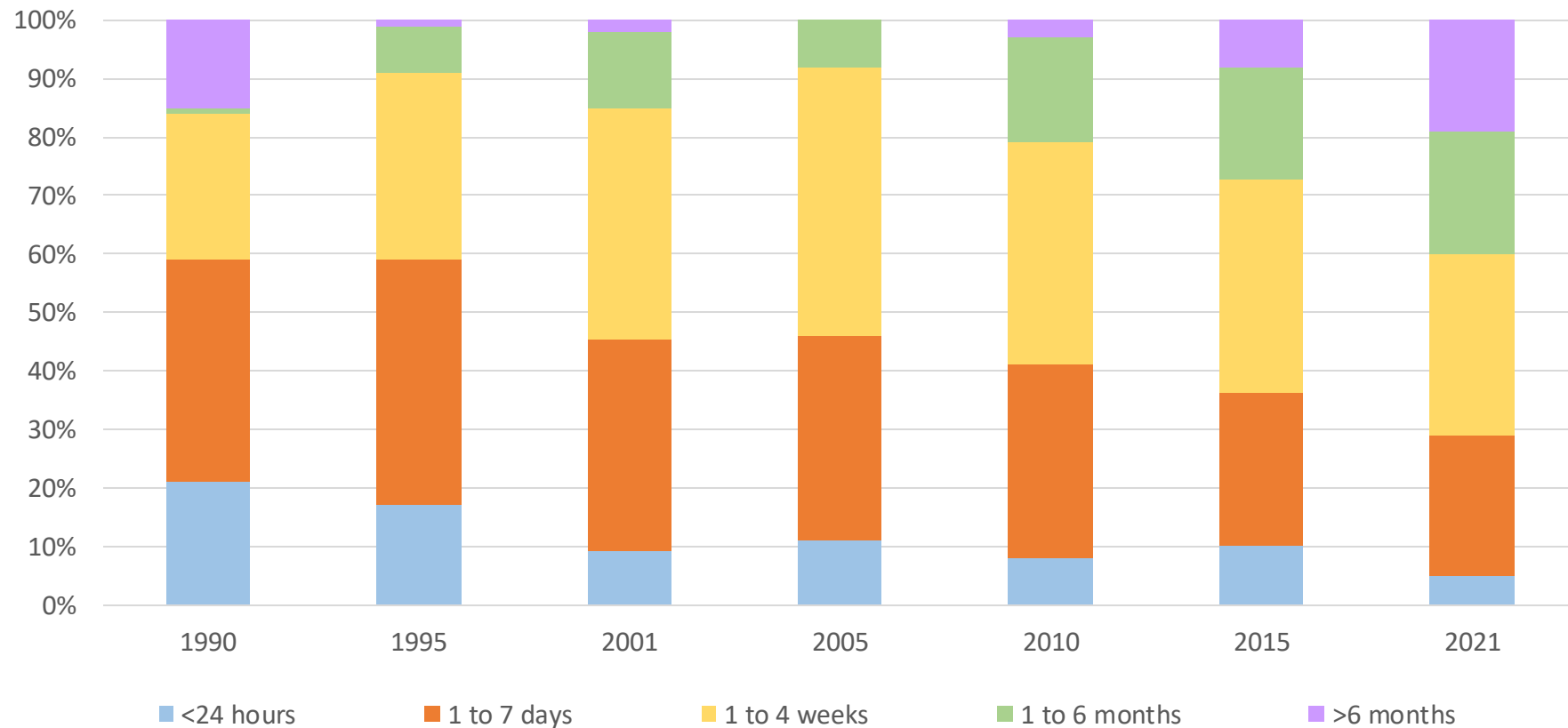
Source: physician survey 2021/2022

Opinions of the general public and physicians on euthanasia in different groups



Source: physician survey and public survey, 2016

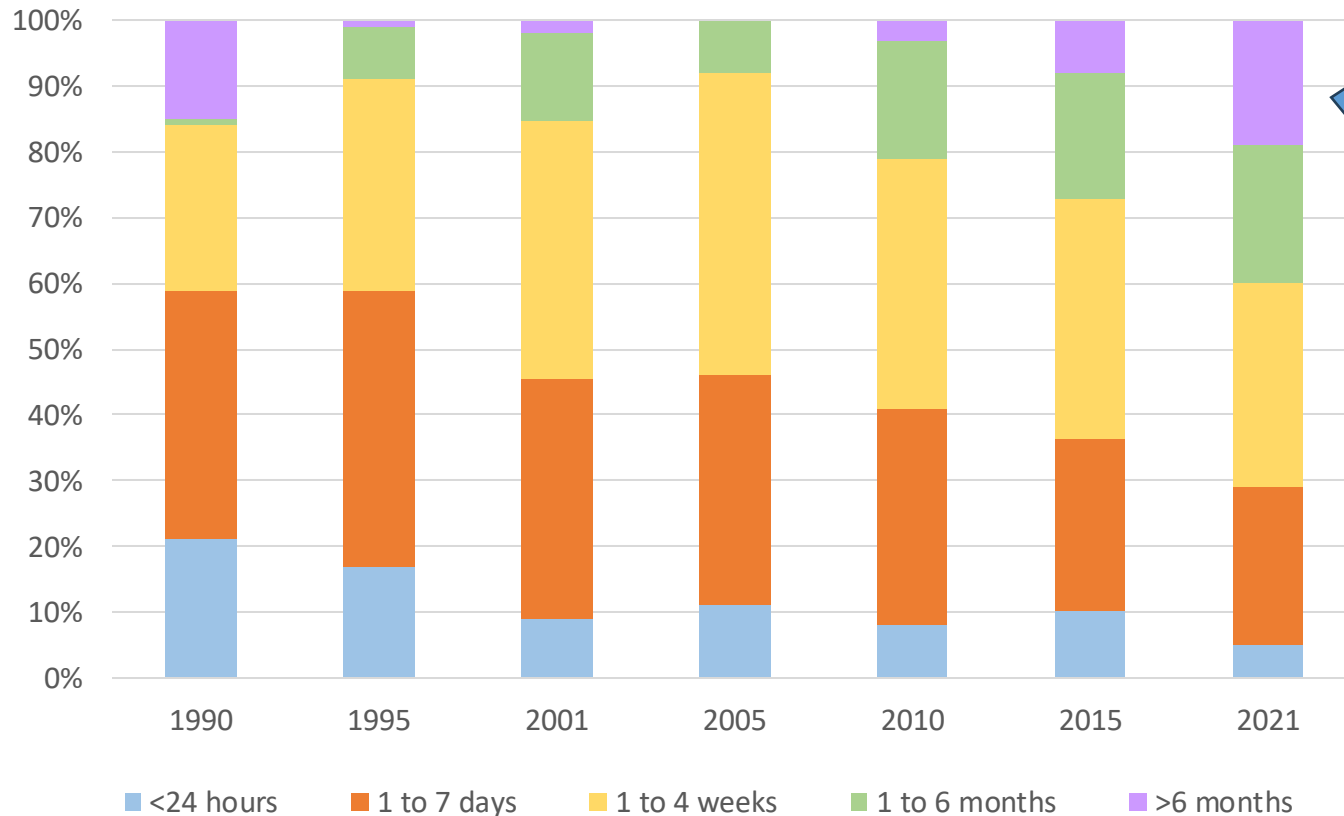
30 years of end-of-life decisions in the Netherlands - Estimated shortening of life-



Source: death certificate studies

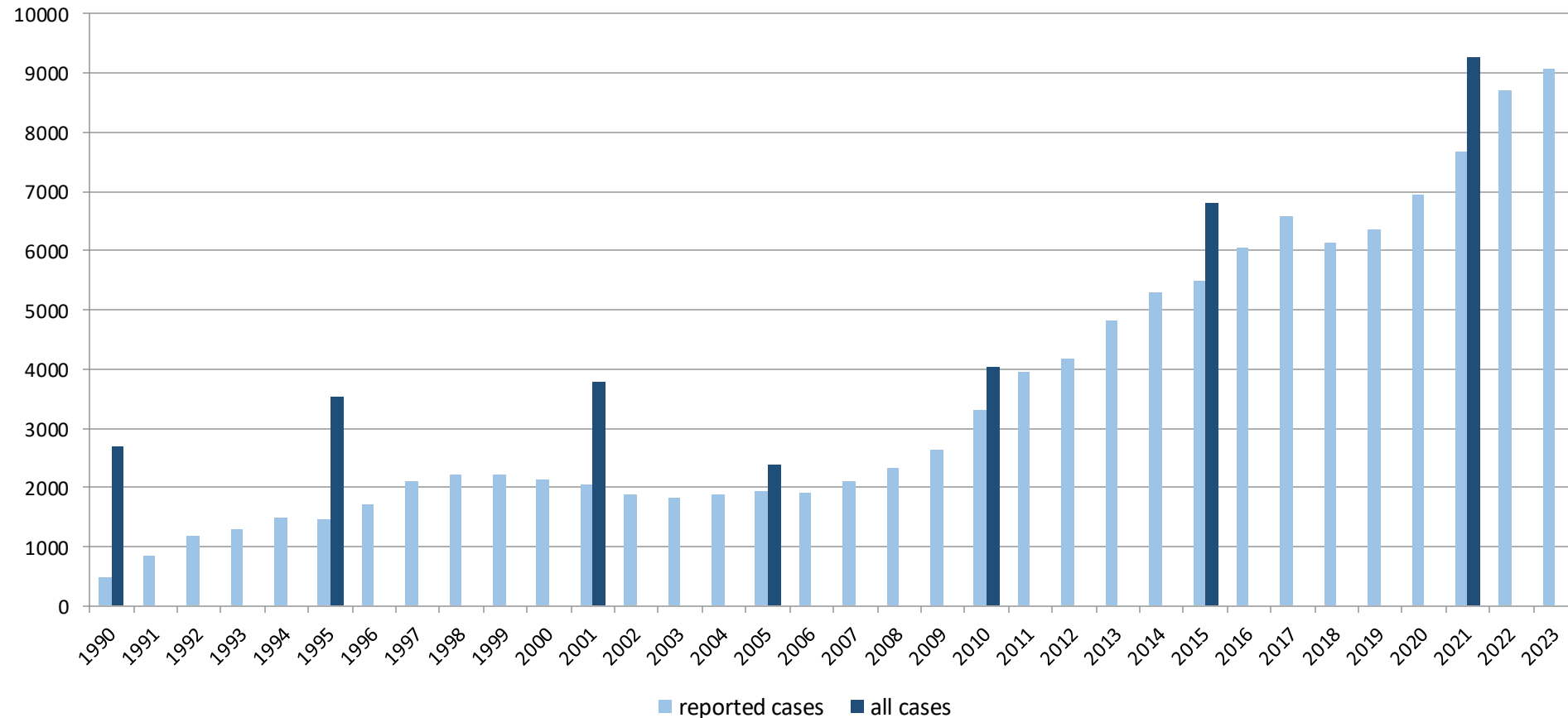
30 years of end-of-life decisions in the Netherlands - Estimated shortening of life-

Life shortening in Euthanasia and physician-assisted suicide



• Less often one serious disease
• Less often pain as reason
• More often loss of dignity

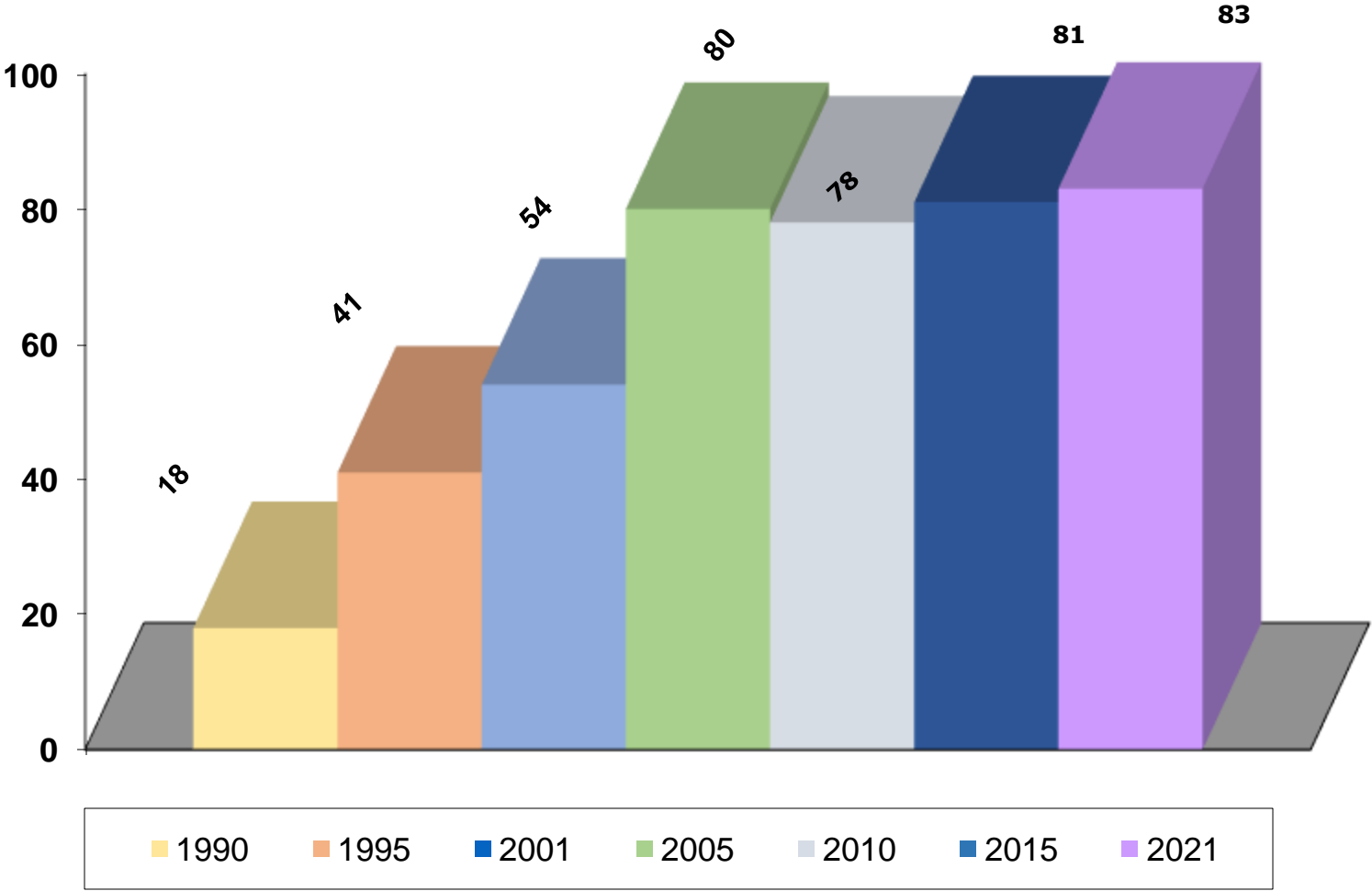
Transparency – number of cases of euthanasia and physician-assisted suicide (total and reported)



Source: death certificate studies and annual reports of regional review committees

Transparency – Increased public oversight

% of all cases that is reported to a euthanasia review committee



Source: death certificate studies and annual reports of regional review committees

Reasons for not reporting



1990:

- No official notification procedure

1995 and 2001:

- Fear for judicial consequences
- Administrative hassles of reporting
- ‘It actually was not euthanasia’: use of opioids

2005, 2010, 2015, 2021:

- ‘It actually was not euthanasia’: use of opioids

Termination of life on request and assisted suicide (review procedures) act (2002)

	Reported cases	Not in accordance with the criteria of due care
2017	6585	12
2018	6126	6
2019	6361	4
2020	6938	2
2021	7666	7
2022	8720	13

The 'Arends case'

- The first criminal prosecution under the Act since 2002
- A physician who had ended the life of a patient with advanced dementia based on her written advance directive

If a patient aged sixteen or over who is no longer capable of expressing his will, but before reaching this state was deemed capable of making a reasonable appraisal of his own interests, has made a written declaration requesting that his life be terminated, the attending physician may comply with this request. The due care criteria referred to in subsection 1 apply mutatis mutandis.

- The Supreme Court ruled in April 2020 that the due care criteria are 'applicable by analogy'.



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Current debates and future prospects

- All stakeholders are quite satisfied about the law
- Practice is still on the move
 - Rising numbers
 - Changing characteristics
 - More emphasis on autonomy (?)
- Is the law future-proof?
 - From a practical point of view?
 - From a societal point of view?
 - From physicians' point of view?
 - From lawyers' point of view?

