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Outline
for the Oral Hearing
of the Second Senate of the Federal Constitutional Court
in the proceedings on the constitutional complaints
against
§ 217 of the Criminal Code (assisted suicide services)
on 16 and 17 April 2019

- A. Introductory statements (five minutes each)

- B. Suicides in Germany, in particular
 - prerequisites for and determination of free decision-making
 - empirical and psychiatric research into suicidal tendencies, their causes and motives
 - consequences and implications
 - legal restrictions on access to suicide assistance, including for organisations offering suicide assistance (laws governing the professions of doctors and pharmacists, narcotics and pharmaceuticals, respectively)
 - factual restrictions on access to suicide assistance (willingness of doctors to provide assistance, situation in care homes)

- C. Admissibility of the constitutional complaints

- D. Merits of the constitutional complaints
 - I. Fundamental rights review
 - 1. Persons wanting to commit suicide
 - a) Scope of protection
 - right to a self-determined death as a (negative) freedom (Art. 2(2) first sentence first alternative of the Basic Law, *Grundgesetz* – GG)
 - general right of personality (Art. 2(1) in conjunction with Art. 1(1) GG)

- human dignity (Art. 1(1) GG)

- b) Interference
 - aa) Indirect interference with fundamental rights
 - bb) Scope and applicability of § 217 of the Criminal Code (*Strafgesetzbuch – StGB*)

- c) Justification
 - aa) Standard of review by the Federal Constitutional Court
 - bb) Proportionality
 - (1) Legitimate purpose of the provision (abstract protection of life and self-determination for individuals and third parties)
 - (2) Proportionality
 - (a) Suitability
 - (b) Necessity
 - alternative legislative possibilities to protect free decision-making (e.g. counselling concepts, ban on advertising)
 - (c) Appropriateness, in particular
 - intensity of the interference
 - alternatives available to persons wanting to commit suicide
 - conflicting legal interests
 - “slippery slope” argument
 - easy access to means of suicide assistance
 - suicide-friendly climate

- 2. Assisted suicide associations and persons providing suicide assistance, in particular
 - occupational freedom (Art. 12(1) GG)
 - freedom of association (Art. 9(1) GG)
 - freedom of conscience (Art. 4(1) second alternative GG)

- II. Art. 103(2) GG, in particular
 - “assisted suicide services” (*Geschäftsmäßigkeit*)

- E. Concluding statements (five to ten minutes each)