



# Abortion Legislation

Bosnia Herzegovina • Russia • Ukraine

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**BOSNIA AND HERZEGOVINA, RUSSIAN FEDERATION, UKRAINE**

**ABORTION LEGISLATION**

*Executive Summary*

*All of the countries listed above have abortion laws allowing termination of pregnancy without restrictions during the first trimester of pregnancy and, on account of social and medical conditions, during the first twenty-two weeks (in Bosnia twenty weeks) of pregnancy. An abortion can be performed at any period in the pregnancy for health reasons. A woman is required to give her informed consent to the abortion procedure; parental notification is required if a woman is under sixteen years of age. An abortion shall be performed in a licensed medical facility; performance of an abortion by a person who lacks medical training, performing an abortion outside a medical facility, as well as forcing a woman to undergo an abortion, is considered a crime.*

**I. Background Information**

The three countries researched have abortion legislation which basically has not been amended since the procedures regulating surgical termination of pregnancies were established by communist regimes. These countries allow almost unrestricted abortion procedures on request during the first twelve weeks of pregnancy (ten weeks in Bosnia and Herzegovina), requiring, however, that the procedure be carried out by authorized medical personnel, with the woman's informed consent, in an approved medical facility.

In all countries researched, abortion is permitted after the initial limitation period when the pregnancy threatens the life or health of the woman, when the pregnancy resulted from a crime, when the fetus is impaired, or for socio-economic reasons. In Ukraine and in Russia, an abortion is legal at any point in the pregnancy for medical reasons, and up to twenty-two weeks for designated social reasons<sup>1</sup>. In Bosnia, after twenty weeks of gestation, abortion may be allowed only when the life or health of a woman is seriously endangered.

In Russia and Ukraine, abortions are included in the list of medical services covered by the national mandatory health insurance and are performed in public facilities without charge. In Bosnia and Herzegovina, abortions are performed in public hospitals at nominal cost. Private medical facilities are allowed to perform this procedure on a fee-for-service basis.

**II. Country Specific Information**

**1. Bosnia**

Despite the fact that Bosnia and Herzegovina achieved independence from the former Yugoslavia in 1991, abortion is still regulated by the Law of October 7, 1977,<sup>2</sup> which implements the provision of the former Yugoslav federal Constitution that stipulated that the right to decide on the birth of a child is a human right. According to this Law, during the first ten weeks of pregnancy an abortion procedure can

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<sup>1</sup> See infra footnote 6, accompanied in text.

<sup>2</sup> SLIZBENY VESNIK [then the official gazette]1977, 154-3486.

be performed upon a woman's request in any authorized medical facility. Parental notification is required in regard to women who are under sixteen years of age or do not earn their own living.

After the first ten weeks, a special authorization by a commission composed of a gynecologist, a general physician, and a social worker or psychologist is required. The commission must prove that the termination of pregnancy is the only possibility of preserving a woman's life or preventing damage to her health, whether during pregnancy, delivery, or post-partum. The commission can authorize the procedure if there is a probability that the child would be born with a serious congenital physical or mental defect, or when conception was a consequence of a crime. The commission's denial of the procedure can be appealed to a higher medical authority. After twenty weeks of gestation, abortion may be allowed only to save the life or health of a woman who is seriously endangered.

## 2. Russia

The Fundamentals of Health Legislation<sup>3</sup> provide for the right of each woman to decide individually in regard to maternity issues. Artificial termination of pregnancy is not restricted during the first twelve weeks of pregnancy, and is allowed up to twenty-two weeks for social reasons and during the entire period of pregnancy because of health factors.<sup>4</sup> The list of medical factors which allow the termination of pregnancy was approved by the Ministry of Health Protection,<sup>5</sup> and the list of social reasons was adopted by the Government of Russia.<sup>6</sup> This list consists of thirteen social disabilities, and includes such reasons as disability of the husband, death of a husband during pregnancy, unemployment of the parents, divorce during pregnancy, lack of living space, income below the subsistence level, and others. In 1995, the President of Russia issued the decree on Guarantees for Health Protection in Advertisement.<sup>7</sup> The Decree did not provide for restrictions on advertisement of abortion procedures and abortion services. The informed consent age in Russia is sixteen, and parental notification is not required for a woman older than sixteen, although the age of majority is eighteen years.

## 3. Ukraine

The Ukrainian legislation concerning abortion is similar to those in Russia. The Fundamental Health Protection Law<sup>8</sup> states that a voluntary termination of pregnancy is allowed upon a woman's request up to twelve weeks of pregnancy, and up to twenty-eight weeks in case of social and medical conditions (art. 50). On November 5, 2004, the Parliament of Ukraine passed a law overriding the 1993 Government regulation, which extended the list of judicial, genetic, vital, broad medical, and social grounds for performing an abortion and limited the period when an abortion can be performed because of medical and social reasons from twenty-eight to twenty-two weeks of gestation.<sup>9</sup>

### III. Criminalization of Illegal Abortions

Penal provisions are imposed on medical organizations that violate provisions of the law. The Criminal Codes of all three countries provide sanctions for the performance of illegal abortions whether or not a woman consented to this procedure; a woman, however, is never held criminally responsible for inducing her own abortion or for cooperating in such a procedure. In Bosnia, the punishment for the performance of

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<sup>3</sup> Vedomosti Verkhovnogo Soveta I Syezda Narodnykh Deputatov RSFSR [then the official gazette] 1993, No. 33, Item 1318.

<sup>4</sup> *Id.* art. 36.

<sup>5</sup> ROSSIISKAIA GAZETA [government owned daily newspaper] Sept. 21, 1994.

<sup>6</sup> SOBRANIE ZAKONODATELSTVA ROSSIISKOI FEDERATSII [official gazette, SZ RF] 1996, No. 20, Item 2355.

<sup>7</sup> SZ RF 1995, No. 8, Item 659.

<sup>8</sup> VIDOMOSTI VERKHOVNOI RADY UKRAINY [official gazette, VVR] 1993, No. 4, Item 19.

<sup>9</sup> VVR 2004, No. 12, Item 147.

an illegal abortion is up to eight years of imprisonment.<sup>10</sup> Russia considers an abortion illegal if it was performed by a person who lacks medical training and punishes such a crime by deprivation of freedom for a term of up to five years.<sup>11</sup> The relevant provision of the Ukrainian Criminal Code prosecutes those who perform an abortion without a license or medical training by imprisonment up to five years as well.<sup>12</sup>

Prepared by Peter Roudik  
Senior Foreign Law Specialist  
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<sup>10</sup> Criminal Code of Bosnia and Herzegovina, art. 171.

<sup>11</sup> Criminal Code of the Russian Federation, art. 123

<sup>11</sup> Criminal Code of Ukraine, art. 134.