



# Laws on Abortion, Genetic Consultation, and Assisted Reproduction

Bulgaria • Czech Republic • France • Germany • Italy  
Netherlands • Poland • Portugal • Romania  
Spain • United Kingdom

July 2022

LL File No. 2022-021233  
LRA-D-PUB-002588

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# Comparative Summary

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This report provides a summary and resources on the development of laws on abortion, genetic consultations, and assisted reproduction from 1945 to the present day in eleven countries: **Bulgaria**, the **Czech Republic**, **Germany**, **Spain**, **France**, **Italy**, the **Netherlands**, **Poland**, **Portugal**, **Romania** and the **United Kingdom**.

All of the countries surveyed permit abortions; the regulation and circumstances under which abortions may be performed vary across the eleven countries. The dates of legalization of abortion under certain circumstances in the surveyed countries diverge significantly; **Romania** and **Bulgaria** first provided for legal abortion in 1936, while in **France**, **Portugal**, and **Spain**, abortion was unlawful until 1975, 1984, and 1985, respectively.

Some of the countries surveyed have enacted specific legislation to regulate genetic consultations and assisted reproduction. The **United Kingdom**, **Italy**, **Spain**, and the **Czech Republic** enacted laws on assisted reproduction in 1990, 2004, 2006 and 2011, respectively. **France** introduced legislation to regulate genetic consultations in 1994, and **Portugal** did so in 2005. **Germany** and the **Netherlands** have amended or interpreted their existing legislative framework to address these issues. **Italy** and **Romania** have no specific legislation regulating genetic consultations.

Detailed information is provided in the following individual country surveys.

# Bulgaria

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**SUMMARY** Bulgaria legalized abortion for medical reasons in 1936, and varying restrictions and regulations have applied since then. The current law adopted in 1990 allows abortions on request up to 12 weeks and for medical grounds thereafter. The Bulgaria Health Act governs medically assisted reproduction and genetic testing.

## I. Abortion

Since 1936, abortion has been legal in Bulgaria for medical reasons, such as for women with serious health conditions like tuberculosis.<sup>1</sup> After World War II, the National Assembly amended the Penal Code to abolish punishment of service providers and women having abortions in authorized medical institutions.<sup>2</sup>

In 1956, the Ministry of Health and Social Welfare issued instructions that further liberalized abortion law. They permitted abortion upon the woman's request up to the first 12 weeks of pregnancy, and beyond 12 weeks in cases of danger to life or health.<sup>3</sup> Abortions had to be performed in authorized hospitals. A woman seeking an abortion was required to notify her local woman's consultation center, which was to consult with her and to try to discourage her from having an abortion.

In the 1960s, in response to government concerns of a declining birth rate, Bulgaria adopted various pro-natalist family policies.<sup>4</sup> In 1968, Bulgaria adopted regulations that prohibited abortions except in specific situations, restricting abortion for specific target groups.

The 1968 regulations provided that abortions would be available to women who had one or two children but required the woman to appear before a medical board for counseling. Abortion on request was available for women over 45 years of age or [those] who had had three or more children. Unmarried women could obtain abortions in cases of the presence

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<sup>1</sup> Dimiter Vassilev, *Bulgaria*, in *From Abortion to Contraception: A Resource to Public Policies and Reproductive Behavior in Central and Eastern Europe from 1917 to the Present* 69, 75 (Henry P. David & Joanna Skilogianis eds., 1999).

<sup>2</sup> *Id.*

<sup>3</sup> Peter B. Maggs, *Law and Population in Eastern Europe*, in *Law and Population Monograph Series*, at 9 (Tufts U. Fletcher Sch. of Dipl. 3rd rev. ed. 1977), <https://perma.cc/2YA4-5DQC>.

<sup>4</sup> Ulf Brunnbauer & Karin Taylor, *Creating a 'Socialist Way of Life': Family and Reproduction Policies in Bulgaria, 1944-1989*, 19 *Continuity & Change* 283, 299-304 (2004), <https://perma.cc/LY28-2HQU> (full text available on Cambridge Core subscription database).

of certain medical or social indications. A list of diseases was established, some of which were considered grounds for abortion, others contra-indications to abortion.<sup>5</sup>

Under the 1968 regulations, childless women were not allowed to have an abortion except in cases when their life was in danger from the pregnancy. For unmarried women, authorization by a special board, for medical reasons or special circumstances of a grave nature, was required. Women under 16 years of age were required to obtain parental consent. In addition, the 1968 regulations prescribed that the local women's health center to which the pregnant woman submitted her application for abortion was required to try to persuade her to withdraw her application, and to offer social assistance to her and her family. In cases when the woman could not be persuaded not to have the abortion and it was legally permitted, the woman was to be referred to the appropriate board responsible for granting authorization for an abortion.<sup>6</sup>

In 1973, the Ministry of Health issued a new regulation stating that women with no or only one living child were permitted to have abortions only in limited cases: diseases endangering the woman or fetus, rape, incest, unmarried women with no children who were under 18, or women over 45 with one living child.<sup>7</sup> In addition,

[m]igratory abortions were restricted. Women with less than two children had to go through complex procedural steps to obtain an abortion. Women with two children could obtain an abortion somewhat more easily. There were no procedural formalities for abortions performed on women with more than three children.<sup>8</sup>

In 1974, Bulgaria amended the regulation to allow abortions for widows, divorced or unmarried women, and for married women who had one living child and were over 40 years.<sup>9</sup>

With the fall of communist rule, a 1990 decree relaxed abortion restrictions. Decree No. 2 of February 1, 1990, allows all women regardless of age or citizenship to have abortions up to gestation of 12 weeks, absent disease that could threaten the woman's life or health (in which case the disease must be treated before the abortion).<sup>10</sup> Under this decree, the woman must first consult with a doctor who determines the term of the pregnancy and the lack of medical contraindications.<sup>11</sup> Abortions may be performed only in authorized obstetrical hospitals or in

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<sup>5</sup> Peter B. Maggs, *Law and Population in Eastern Europe*, supra note 3.

<sup>6</sup> World Health Organization, *Abortion Laws: A Survey of Current Law Legislation* 48-49 (1971), <https://perma.cc/R6MX-Z3VR>.

<sup>7</sup> Peter B. Maggs, *Law and Population in Eastern Europe*, supra note 3, at 9-10.

<sup>8</sup> *Id.* at 10.

<sup>9</sup> *Id.* (citing Amendments and Additions to Instruction No. 0-27 Regulating the Artificial Interruption of Pregnancy, *Durzhaven Vestnik*, February 22, 1974, No. 15, p. 7, reprinted in 25 *Int'l Dig. Health Legis.* 541 (1974)).

<sup>10</sup> Decree No. 2 of Feb. 1, 1990 on the Conditions and Procedures for the Artificial Termination of Pregnancy, arts. 2, 7, 9, amended and supplemented, *Official Gazette* No. 89 of Oct. 31, 2000, <https://perma.cc/TA97-2JX3> (in Bulgarian).

<sup>11</sup> *Id.* art. 8.

the obstetrics departments of general hospitals.<sup>12</sup> For pregnancies in gestation between 12 and 20 weeks, abortions are permitted to save the pregnant woman's life or physical health or in cases of fetal impairment.<sup>13</sup> After 20 weeks, abortion is legally permitted to save a woman's life or in cases of fetal impairment.<sup>14</sup> An abortion on medical grounds requires a determination by a special medical committee.<sup>15</sup>

In Bulgaria, abortions violating regulations of the Ministry of Health are punished under article 126 of the Criminal Code. One who provides an abortion with the woman's consent outside an accredited health establishment or in violation of the standards of good medical practice shall be imprisoned up to five years. If the culprit does not have a higher medical degree or has performed two or more abortions, the punishment shall be imprisonment up to eight years. The woman is not criminally liable.<sup>16</sup>

## II. Reproductive Laws/ Genetic Consultations

In Bulgaria, medically assisted reproduction (MAR) procedures are governed by the Bulgaria Health Act.<sup>17</sup>

According to this law, “[a]ssisted reproduction shall be applied, where the condition of the man or the woman prevents the natural performance of their reproductive functions.”<sup>18</sup> MAR shall include the activities related to the application of medical methods for fertilization of an ovum located inside or outside the body of the woman and the extraction of an ovum from one woman and the implantation into the body of the same woman or into the body of another woman.<sup>19</sup>

The law regulates the use of biologic materials for research purposes and genome modification, prohibits gender selection (except to prevent gender-related hereditary diseases), and prohibits the reproductive cloning of people.<sup>20</sup>

The law specifies the purposes and circumstances under which genetic testing may take place.<sup>21</sup> It does not specifically address genetic counseling.

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<sup>12</sup> Id. art. 10, para. 1.

<sup>13</sup> Id. art. 12, para. 1.

<sup>14</sup> Id. art. 12, para. 2.

<sup>15</sup> Id. art. 14.

<sup>16</sup> Criminal Code of Bulgaria, 26/2, Apr. 1968, as amended through Oct. 24, 2017, art. 126, paras. 1-4, <https://perma.cc/RY6Y-W5BB> (unofficial English translation).

<sup>17</sup> Bulgarian Health Act, No. 70/10, adopted on Aug. 10, 2004, in force since Jan.1, 2005, <https://perma.cc/9KCP-9FMV> (part I), <https://perma.cc/Y6UA-VXT5> (part II) (unofficial English translations).

<sup>18</sup> Id. part II, art. 129.

<sup>19</sup> Id. art. 130, para. 4.

<sup>20</sup> Id. arts 134, 135.

<sup>21</sup> Id. arts. 137-143.

# Czech Republic

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**SUMMARY** Abortion was legalized in Czechoslovakia in 1957. Until 1987, special commissions decided whether women's requests for abortion satisfied permissible grounds, which varied under different ministerial decrees. Under current law, women may obtain abortions on request through 12 weeks, and thereafter in case of danger to the life or health of the mother or fetus. The Specific Medical Services Act of 2011 governs assisted reproduction, genetic testing, and related issues. Artificial insemination is available for heterosexual couples under conditions regulated by the act. Genetic testing is available for health services specified in the act, subject to the patient's informed consent and, in some cases, counseling by physicians with specialized competence.

## I. Abortion

Czechoslovakia's Penal Code of 1950 defined abortion as the killing of a human fetus punishable by imprisonment, but allowed abortion if a medical officer determined the pregnancy seriously endangered the woman's health or if one of the parents had a serious hereditary disease and the abortion was performed with the woman's consent in a hospital.<sup>1</sup>

Abortion was legalized on December 30, 1957.<sup>2</sup> The 1957 act provided that "permission for termination of pregnancy may be granted on medical grounds or other reasons deserving special consideration."<sup>3</sup> Special commissions decided whether to authorize abortions requested by pregnant women, either for health reasons or "other important reasons," including social indications. Abortions required the woman's consent and had to be performed in an inpatient medical facility.<sup>4</sup> The woman could be no more than 12 weeks pregnant and should not have had an abortion in the preceding six months.<sup>5</sup>

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<sup>1</sup> World Health Org., *Abortion Laws: A Survey of Current Law Legislation* 49 (1971), <https://perma.cc/YSD4-ZAXJ> (citing section 218 of the Penal Law of 1950); see also Radka Dudová, *Discourses on Abortion and their Impact on Institutions in Czechoslovakia and the Czech Republic in the Second Half of the 20th Century (1950–2003)*, in *Children by Choice? Changing Values, Reproduction, and Family Planning in the 20th Century* 163, 168 (Ann-Katrin Gembries, Theresia Theuke & Isabel Heinemann 2018), <https://perma.cc/97HD-QDBV> (ebook available via De Gruyter Online by subscription).

<sup>2</sup> World Health Org., *supra* note 1, at 50, citing Act No. 68 of 1957.

<sup>3</sup> Vladimir Wynnyczuk & Radim Uzel, *Czech Republic and Slovak Republic*, in *From Abortion to Contraception: A Resource to Public Policies and Reproductive Behavior in Central and Eastern Europe from 1917 to the Present* 107, 109 (Henry P. David & Joanna Skilogianis eds., 1999).

<sup>4</sup> World Health Org., *supra* note 1, at 50.

<sup>5</sup> Wynnyczuk & Uzel, *supra* note 3.

In 1961, the Ministry of Health issued a decree implementing the 1957 act, making it legal for women to get an abortion in difficult social situations such as those that prevented them from caring properly for their children.<sup>6</sup> Other ministerial decrees periodically altered the circumstances under which commissions should approve abortions.<sup>7</sup>

A 1973 decree tightened requirements, reflecting the pro-natalist policy prevailing in Czechoslovakia at that time.<sup>8</sup> It provided that married Czech women with no or only one child should be allowed to obtain an abortion for social reasons only in exceptional circumstances. Foreign women without permanent resident status in Czechoslovakia could not obtain an abortion for any reason other than health issues. The waiting period for undergoing a second abortion was expanded from six to 12 months.<sup>9</sup>

The current abortion law took effect January 1, 1987.<sup>10</sup> It abolished the commissions that previously determined whether to approve women's abortion requests.<sup>11</sup> Abortion is legal on any ground provided that the pregnant woman requests it in writing before the 12th week of pregnancy and there are no medical contraindications.<sup>12</sup> A pregnancy beyond 12 weeks can be terminated if the life or health of the woman or the healthy development of the fetus is in danger or if there are genetic anomalies.<sup>13</sup> For women under 16, parental permission is required; the parents or guardian of women 16 to 18 years old are notified of the procedure.<sup>14</sup>

## II. Assisted Reproduction / Genetic Consultations

In the Czech Republic, assisted reproduction is governed by Act No. 373/2011 Coll., on Specific Health Services.<sup>15</sup>

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<sup>6</sup> Decree No. 104/1961 of the Ministry of Health on Implementing the Law on Abortion, Sept. 13, 1961, <https://perma.cc/M4QT-2BL4> (in Czech).

<sup>7</sup> World Health Org., *supra* note 1, at 50.

<sup>8</sup> Dudová, *supra* note 1, at 169.

<sup>9</sup> *Id.* at 169 n. 22; Decree No. 71/1973 of the Ministry of Health of the Czech Socialist Republic, May 16, 1973, repealed Jan. 1, 1987, <https://perma.cc/L7R3-PJLL> (in Czech).

<sup>10</sup> Act No. 66/1986 Coll. on the Induced Termination of Pregnancy, Nov. 3, 1986, effective Jan. 1, 1987, <https://perma.cc/XW6Q-DZSS> (in Czech), <https://perma.cc/EY7S-AQAQ> (unofficial English translation).

<sup>11</sup> Wynnyczuk & Uzel, *supra* note 3, at 110.

<sup>12</sup> Act No. 66/1986 § 4.

<sup>13</sup> *Id.* § 5.

<sup>14</sup> *Id.*

<sup>15</sup> Act No. 373/2011, Coll., the Act on Specific Health Services, §§ 3-11, Nov. 6, 2011, effective Apr. 1, 2012, <https://perma.cc/9Q7A-CBUH> (in Czech); <https://perma.cc/7A2E-N23G> (in English, as amended through Oct. 31, 2017).

The law sets forth definitions of matters covered by the law, such as assisted reproduction, infertility, artificial insemination, etc.<sup>16</sup> It bars the use of assisted reproduction for purposes of gender selection, except where it can help avoid gender-related genetically mediated disease.<sup>17</sup>

The law provides that artificial insemination can be performed only on women under 49 years of age, based on the written request of a woman and man together.<sup>18</sup> Assisted reproduction is considered a therapy for heterosexual couples, married or not; homosexual couples and single persons are ineligible.<sup>19</sup>

Both the donor and the recipient woman must have their medical fitness assessed, and both must have legal capacity.<sup>20</sup> The law prescribes informed consent requirements with respect to assisted reproduction.<sup>21</sup> It also provides detailed requirements regarding the use and disposal of embryos that are not used for artificial insemination.<sup>22</sup>

In 2007, a National Registry of Assisted Reproduction (NRAR) was established to collect information for the evaluation, management, and improvement of care for infertile couples. Data from the NRAR also supports medically assisted reproduction policy development and treatment options.<sup>23</sup>

The Specific Health Services Law also regulates genetic testing and genetic engineering.<sup>24</sup> The law permits genetic testing only by accredited laboratories.<sup>25</sup> It specifies the health services for which genetic testing may be performed, including pre-implantation diagnosis in assisted reproduction, diagnosing genetic diseases and developmental defects, determining predisposition to diseases, targeted screening of newborns, and optimizing treatment.<sup>26</sup> Genetic testing can also be performed for biomedical research.<sup>27</sup> Genetic testing can only be performed following the patient's informed consent.<sup>28</sup> In the event of genetic testing results with diagnostic significance to

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<sup>16</sup> Id. § 3.

<sup>17</sup> Id. § 5(2).

<sup>18</sup> Id. § 6.

<sup>19</sup> Carolina De Faria, *Assisted Reproduction for Single Women Still Not Allowed in Czech Republic*, Prague Correspondent (Sept. 9, 2019), <https://perma.cc/9XTC-2MAJ>. A 2016 proposal by the the Ministry of Labour and Social Affairs to amend the law to make assisted reproduction treatment available to single women was rejected in the Parliament. Id.

<sup>20</sup> Id. § 7.

<sup>21</sup> Id. § 8.

<sup>22</sup> Id. § 9.

<sup>23</sup> *National Registry of Assisted Reproduction*, Institute of Health Information and Statistics of the Czech Republic, <https://perma.cc/293H-FBYF> (in Czech).

<sup>24</sup> Act No. 373/2011 §§ 28-30.

<sup>25</sup> Id. § 28(2).

<sup>26</sup> Id. § 28(3)(a).

<sup>27</sup> Id. § 28(3)(b).

<sup>28</sup> Id. § 28(4).

the patient, relatives, or future generations, the provider shall recommend to the patient and relatives genetic counseling from a physician with specialized competence in medical genetics.<sup>29</sup>

The law regulates the testing of genetic material from a deceased person's body for educational, scientific and research purposes.<sup>30</sup> It bans providing a patient financial compensation for undergoing genetic testing.<sup>31</sup> The results of genetic testing must not be provided or sold to third parties without the patient's written consent. Discrimination on the basis of genetic testing is forbidden.<sup>32</sup>

Genetic testing of a human embryo or fetus may only be performed following genetic counseling to the mother by a physician with specialized competence, including the proper interpretation of the results, and following her written informed consent.<sup>33</sup>

The law provides that gene editing may be performed only in the case of serious genetic diseases, and only “under the condition that [the patient’s] natural biological integrity in germ cells is maintained.”<sup>34</sup> Cloning is prohibited,<sup>35</sup> as is interspecies transfer of the human genome or a human embryo.<sup>36</sup>

In 1998, the Czech Republic became a party to the European Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to Biology and Medicine.<sup>37</sup> In 2019, it ratified the Additional Protocol to the Convention on Human Rights and Biomedicine Concerning Genetic Testing for Health Purposes.<sup>38</sup>

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<sup>29</sup> Id. § 28(6).

<sup>30</sup> Id. § 29(1).

<sup>31</sup> Id. § 29(2).

<sup>32</sup> Id.

<sup>33</sup> Id. § 29(3).

<sup>34</sup> Id. § 30(1).

<sup>35</sup> Id. § 30(2).

<sup>36</sup> Id. § 30(3).

<sup>37</sup> European Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to Biology and Medicine: Convention on Human Rights and Biomedicine, opened for signature Apr. 4, 1997, ETS No. 164 (entered into force Dec. 1, 1999), <https://perma.cc/23JV-Y8DT>; *Chart of Signatures and Ratifications of Treaty 164*, Status as of Apr. 4, 2022, <https://perma.cc/Y637-NBQP>.

<sup>38</sup> Additional Protocol to the Convention on Human Rights and Biomedicine concerning Genetic Testing for Health Purposes, CETS No. 203, <https://perma.cc/VAT2-DJMM>; *Chart of Signatures and Ratifications of Treaty 203*, Status as of Apr. 19, 2022, <https://perma.cc/6WFA-YTY2>.

# France

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**SUMMARY** Abortion has been legal in France since 1975. Current law allows women to obtain an abortion without medical justification until the end of the 14th week, and thereafter if two doctors confirm a danger to the mother or that the fetus would be born with a particularly serious and untreatable health condition. Genetic consultations are regulated by provisions in the Public Health Code and Civil Code, including those on the permissible use of genetic testing and a prohibition on discrimination. Medically assisted reproduction is mainly governed by the Public Health Code; gestational surrogacy is illegal in France under a Civil Code provision.

Provisions on abortion, genetic consultations, and reproduction are found mainly in France's Public Health Code<sup>1</sup> and Civil Code.<sup>2</sup>

## I. Abortion

Abortion was initially legalized in France by the Loi No. 75-17 du 17 janvier 1975 relative à l'interruption volontaire de la grossesse.<sup>3</sup> The current rules on abortion are found in articles L2211-1 to L2223-2 and R2212-1 to R2222-3 of the Public Health Code.<sup>4</sup>

French law now authorizes women to obtain an abortion without medical justification until the end of the 14th week of pregnancy.<sup>5</sup> After the 14th week of pregnancy, French law permits an abortion if two doctors from a multidisciplinary team confirm, after consulting with the rest of their team, that carrying the pregnancy to term would seriously endanger the woman's health, or that there is a strong probability that the child would be born with a particularly serious health condition that is untreatable at the time of the diagnosis.<sup>6</sup> The 14-week threshold is the result of a very recent amendment to the Public Health Code, which came into effect on March 4, 2022.<sup>7</sup> Between July 7, 2001, and March 3, 2022, a woman could choose to have an abortion without the

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<sup>1</sup> Code de la santé publique, <https://perma.cc/CH75-46KJ>.

<sup>2</sup> Code civil, <https://perma.cc/F76B-ZU44>.

<sup>3</sup> Law No. 75-17 of January 1975 Regarding Voluntary Interruption of Pregnancy, also known as the *Loi Veil* after the name of its sponsor, Minister of Health Simone Veil. The original version of this law can be downloaded at <https://perma.cc/JZ3P-V87Y>.

<sup>4</sup> Article numbers that start with an "L" indicate legislative provisions, while those that start with an "R" or a "D" indicate regulatory provisions.

<sup>5</sup> Code de la santé publique, art. L2212-1.

<sup>6</sup> Id. art. L2213-1.

<sup>7</sup> Loi n° 2022-295 du 2 mars 2022 visant à renforcer le droit à l'avortement, art. 1, Mar. 2, 2022, <https://perma.cc/X24J-XQ7F>.

need for any medical justification until the 12th week of pregnancy. Between January 18, 1975, and July 6, 2001, that threshold was 10 weeks.

Abortions can only be performed by a medical doctor or by a midwife.<sup>8</sup> Up until January 27, 2016, abortions could only be performed by a medical doctor.

When a pregnant woman comes to a doctor or midwife to ask for an abortion, the latter must inform her during the first consultation about the medical and surgical methods of abortion and the risks and potential side effects.<sup>9</sup> French law also provides that the patient be offered a consultation with a marriage counselor, family planning counselor, or social services, both before and after the abortion.<sup>10</sup> An adult woman is free to accept or decline these offers of consultation, but the pre-abortion consultation is mandatory for non-emancipated minors.<sup>11</sup> Prior to July 7, 2001, a pre-abortion consultation with a family planning counselor or social worker was mandatory even for adult women.

Prior to the legalization of abortion in 1975, abortion was prohibited under article 317 of the Penal Code (*Code pénal*).<sup>12</sup> In the 1972 Penal Code, the possible punishment for an abortion provider was between one and five years' imprisonment and a fine of 1,800 to 36,000 francs. Punishment for a "habitual" abortion provider was five to 10 years' imprisonment and a fine of 18,000 and 72,000 francs. Punishment for the woman who received an abortion was between six months and two years' imprisonment and a fine of 360 to 7,200 francs. A 1946 version of the Penal Code was largely identical but had some additional provisions to punish cases where a person causes another to fall ill by the administration of an unhealthy substance.<sup>13</sup>

## II. Genetic Consultation

Genetics as a medical specialty was first recognized in 1995 by the Loi n° 95-116 du 4 février 1995 portant diverses dispositions d'ordre social.<sup>14</sup> Genetic consultations and the profession of genetic counselor are now principally governed by articles L1130-1 to L1133-10 and R1131-1 to R1132-20 of the Public Health Code. However, genetic consultations are also bound by articles 16-10 to 16-12 of the Civil Code,<sup>15</sup> which limit the permissible use of genetic testing to medical purposes, scientific research, and law enforcement investigations. These provisions were added to the Civil Code in 1994 by Loi n° 94-653 du 29 juillet 1994 relative au respect du corps humain.<sup>16</sup> There is

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<sup>8</sup> Id. art. L2212-2.

<sup>9</sup> Id. art. L2212-3.

<sup>10</sup> Id. art. L2212-4.

<sup>11</sup> Id.

<sup>12</sup> Code penal art. 317 (Dalloz 1972), bibliographic information at <https://lcn.loc.gov/60000322>.

<sup>13</sup> Code penal art. 317 (Charles-Lavauzelle 1946), bibliographic information at <https://lcn.loc.gov/ltf91028008>.

<sup>14</sup> Law No. 95-116 of February 4, 1995, Regarding Miscellaneous Provisions of a Social Nature, <https://perma.cc/RYY3-V54L>.

<sup>15</sup> Code civil arts. 16-10 to 16-12, <https://perma.cc/PNB7-KXQK>.

<sup>16</sup> Law No. 94-653 of July 29, 1994, Regarding Respect for the Human Body, <https://perma.cc/9CVZ-R8RR>.

also an article 16-13, which prohibits discrimination based on genetic characteristics, and which was added in 2002 by Loi n° 2002-303 du 4 mars 2002 relative aux droits des malades et à la qualité du système de santé.<sup>17</sup>

### **III. Assisted Reproduction**

Provisions on medically assisted procreation are found at articles L2141-1 to L2143-9 and R2141-1 to R2142-49 of the Public Health Code. The Public Health Code was amended on August 2, 2021, to allow lesbian couples and single women to access medically assisted reproduction.<sup>18</sup>

Gestational surrogacy is illegal in France under article 16-7 of the Civil Code, which states, “any agreement regarding procreation or gestation for another is null.” This provision was added by Loi n° 94-653 du 29 juillet 1994 relative au respect du corps humain, referred to above.

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<sup>17</sup> Law No. 2002-303 of March 4, 2002, Regarding the Rights of the Ill and the Quality of the Healthcare System, <https://perma.cc/KA8M-7B9L>.

<sup>18</sup> See *Nicolas Boring, France: President Macron Signs New Law on Bioethics*, Global Legal Monitor (2021), <https://perma.cc/U6KJ-QWM6>.

# Germany

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**SUMMARY** The Criminal Code in effect in 1943 prohibited abortions, with exceptions to save the life and health of the mother and to further racist Nazi policies; it also limited the distribution and advertisement of abortion-inducing drugs and contraceptives. In the immediate aftermath of the war, the occupation zones took varied approaches to criminalizing abortion. From 1949 until German reunification, there were separate laws on abortion for East and West Germany, but abortion was illegal except in limited circumstances. In East Germany, a 1950 law made abortion legal only in cases of cases of medical indication or hereditary disease; a 1972 law granted women the right to abortion during the first 12 weeks, and abortions thereafter were allowed for medical reasons with approval by a commission of doctors. In 1974, West Germany passed a law making abortion not punishable in the first 12 weeks, but the Federal Constitutional Court ruled it was unconstitutional. Following reunification, abortions are nominally prohibited but with a broad exception allowing abortion within the first 12 weeks if the woman receives counseling three days before the procedure; abortions after 12 weeks are excepted from the prohibition only in limited circumstances.

Provisions on genetic consultation and reproduction in Germany appear in a number of different laws and amendments that are listed in this report.

## I. Abortion

The development of laws on abortion in Germany has had a complex history.<sup>1</sup>

The Criminal Code as in effect in 1943 prohibited abortions.<sup>2</sup> If, by performing an abortion, the perpetrator impaired the “viability of the German people,” the death penalty was imposed.

Exceptions to the general prohibition on abortions were made by the Law for the Prevention of Offspring with Hereditary Diseases (Gesetz zur Verhütung erbkranken Nachwuchses) in cases

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<sup>1</sup> For overviews of the historic development of abortion law in Germany, see Jeremy Telman, *Abortion and Women’s Legal Personhood in Germany: A Contribution to the Feminist Theory of the State*, 24 N.Y.U. Rev. L. & Soc. Change 91 (1998), <https://perma.cc/BV7A-2DM2>; Michael G. Mattern, *German Abortion Law: The Unwanted Child of Reunification*, 13 Loy. L.A. Int’l & Comp. L. Rev. 643 (1991), <https://perma.cc/77EP-6ESQ>; Henry P. David et al., *Abortion and Eugenics in Nazi Germany*, 14 Population & Dev. Rev. 81 (1988), <https://perma.cc/7FCZ-X49B>.

<sup>2</sup> Strafgesetzbuch [StGB], May 15, 1871, Reichsgesetzblatt [RGBl.] I at 127, § 218 (as in effect in 1943).

of medical indication to save the life or health of the mother<sup>3</sup> or for eugenic reasons in line with the Nazi racist theory.<sup>4</sup>

In addition, section 219 of the Criminal Code as in effect in 1943 limited the distribution and advertisement of abortion-inducing and pregnancy-preventing drugs. Abortion-inducing drugs remained allowed in cases of medical necessity.<sup>5</sup> This was further specified in a police ordinance that listed the methods and products that were prohibited.<sup>6</sup>

Starting in 1947, the eugenic abortion exception was not applied anymore; the Hereditary Health Courts (Erbgesundheitsgerichte) that administered them were dissolved after the war ended. In addition, section 219, paragraph 2 was abolished.<sup>7</sup> However, in the British occupation zone, an ordinance amended section 219 and reintroduced paragraph 2, limiting the provision to abortion-inducing drugs.

In the German states of Schleswig-Holstein, Niedersachsen, and Hamburg (British zone) and in Baden-Württemberg (partly French/partly US zone), the police ordinance from 1941<sup>8</sup> was abolished and replaced by new regulations on contraceptives. In each East German state, new rules replacing section 219 were introduced.<sup>9</sup> In addition, the German Central Administration for Health Services declared the police ordinance inapplicable in the Soviet Zone of Occupation.<sup>10</sup>

In 1950, the German Democratic Republic (GDR) (East Germany) passed the Law on the Protection of Mothers and Children and the Rights of Women.<sup>11</sup> Its section 11 allowed abortions only in cases of medical indication or if one of the parents had a severe hereditary disease. This law replaced the laws abolishing sections 218 and 219 that were adopted in each East German state in 1947.<sup>12</sup>

In 1953, section 218, paragraph 2, sentence 3, on the “viability of the German people,” was abolished in West Germany. The version of section 219 in place in the British zone was adopted

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<sup>3</sup> Gesetz zur Änderung des Gesetzes zur Verhütung erbkranken Nachwuchses [Erbgesundheitsgesetz], June 26, 1935, RGBl. I at 773, § 14, <https://perma.cc/AS5J-KZYC>.

<sup>4</sup> Id. § 10a.

<sup>5</sup> StGB § 219, para. 2.

<sup>6</sup> Polizeiverordnung über Verfahren, Mittel und Gegenstände zur Unterbrechung und Verhütung von Schwangerschaften, Jan. 21, 1941, RGBl. I at 63, <https://perma.cc/53LE-DLJ9>.

<sup>7</sup> Adolf Schönke, § 219, in *Strafgesetzbuch Kommentar*, at 458 (Adolf Schönke ed., 3rd ed. 1947).

<sup>8</sup> See *supra* note 6.

<sup>9</sup> Adolf Schönke, § 219, in *Strafgesetzbuch Kommentar*, at 591 (Adolf Schönke ed., 6th ed. 1952).

<sup>10</sup> Rundschreiben der deutschen Zentralverwaltung für das Gesundheitswesen in der sowjetischen Besatzungszone über die Unanwendbarkeit der Polizeiverordnung über Verfahren, Mittel und Gegenstände zur Unterbrechung und Verhütung von Schwangerschaften vom 21. 1. 1941, Aug. 26, 1946, *Das Gesundheitswesen* 1947, at 204.

<sup>11</sup> Gesetz über den Mutter- und Kinderschutz und die Rechte der Frau, Sept. 27, 1950, *Gesetzblatt der Deutschen Demokratischen Republik* [GBl.] at 1037, <https://perma.cc/5WZ7-BR8X>.

<sup>12</sup> Schönke, § 218, at 583, *supra* note 9.

as the general version. However, the West German states still had different rules in place regulating contraceptives.<sup>13</sup>

In 1968, the GDR adopted its own criminal code.<sup>14</sup> Section 153 prohibited abortions that were not performed in accordance with the requirements set out in the Law on the Protection of Mothers and Children and the Rights of Women.

In 1969, the West German Criminal Code was amended, and the penalty for abortions was determined to be a term of imprisonment of up to five years.<sup>15</sup>

In 1972, the Law on the Interruption of Pregnancy (Gesetz über die Unterbrechung der Schwangerschaft) was adopted in East Germany.<sup>16</sup> It gave pregnant women the right to undergo an abortion within the first 12 weeks of pregnancy.<sup>17</sup> It stated that “[t]he woman is given the right, in addition to the existing contraceptive options, to decide on her own whether to terminate a pregnancy.”<sup>18</sup> After 12 weeks, abortions were only allowed in medically indicated cases, for which an approval from a commission of doctors was needed.<sup>19</sup>

In 1974, the West German Criminal Code was amended.<sup>20</sup> Abortions remained in the Criminal Code but were not punishable in the first three months of pregnancy. No specific reason was needed to have an abortion.<sup>21</sup> The pregnant woman had to receive counseling before the abortion was performed, otherwise the doctor was punished.<sup>22</sup> Abortions after 12 weeks were not punished if the pregnancy posed a severe health risk or threatened the life of the mother or if the child was expected to have fundamental health problems so severe that the mother could not be expected to continue the pregnancy;<sup>23</sup> a commission needed to confirm beforehand that these requirements were met.<sup>24</sup>

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<sup>13</sup> Drittes Strafrechtsänderungsgesetz, Aug. 4, 1953, Bundesgesetzblatt [BGBl.] I at 735, <https://perma.cc/8S7T-V8G5>.

<sup>14</sup> Strafgesetzbuch der Deutschen Demokratischen Republik [StGB], Jan. 12, 1968, GBl. I at 1, <https://perma.cc/DR34-U928>.

<sup>15</sup> Erstes Gesetz zur Reform des Strafrechts [1. StrRG], June 25, 1969, BGBl. I at 645, 654, <https://perma.cc/F6JX-35BV>.

<sup>16</sup> Gesetz über die Unterbrechung der Schwangerschaft, Mar. 9, 1972, GBl. I at 89, <https://perma.cc/HPB8-NVYE>.

<sup>17</sup> Id. § 1, para. 2.

<sup>18</sup> Id. § 1, para. 1.

<sup>19</sup> Id. § 2.

<sup>20</sup> Fünftes Gesetz zur Reform des Strafrechts [5. StrRG], June 18, 1974, BGBl. I at 1297, <https://perma.cc/C3J4-R583>.

<sup>21</sup> Id. § 218a.

<sup>22</sup> Id. § 218c.

<sup>23</sup> Id. § 218b.

<sup>24</sup> Id. § 219.

In 1975, the Federal Constitutional Court declared the new rules unconstitutional, stating that the state has a duty to protect the unborn life and that abortions may only be allowed if continuing the pregnancy would be “unbearable” (*unzumutbar*) for the mother, such as when it threatens her life or health.<sup>25</sup>

In 1976, the law was amended to comply with the court decision.<sup>26</sup> The 12-week period in which women could determine to have an abortion was abolished. Abortions were not punishable only when there was a “danger of serious impairment of the physical or mental health of the pregnant woman that cannot be averted in any other way that is reasonable for her,” such as when the child had fundamental health problems, when the mother was a victim of rape or other sexual crimes, or when she faced an “emergency situation.”<sup>27</sup> A doctor had to certify that these criteria were met. The abortion itself had to be performed by a different doctor. In addition, a three-day waiting period after counseling was introduced.

In 1992, German reunification required another reform of the law, because the abortion laws in the former East Germany were more liberal. The new rules stated that abortions were “not illegal” after consultation with a doctor and a three-day waiting period within the first 12 weeks of pregnancy.<sup>28</sup> For pregnant women, abortions were not punished until the end of the 22nd week.<sup>29</sup> However, doctors were only allowed to perform abortions after 12 weeks if it was medically indicated for either the mother or the child, which needed to be certified by another doctor.<sup>30</sup>

The new version of section 219 of the Criminal Code stated that the reason for counseling was the protection of life and that it was supposed to help the woman make an informed decision. Details regarding counseling and support were set out in the Pregnancy Conflict Act (*Schwangerschaftskonfliktgesetz*).<sup>31</sup> In addition, the costs of legal abortions were covered by health insurance.<sup>32</sup>

In 1995, the Federal Constitutional Court once again declared the new rules unconstitutional.<sup>33</sup> The court reiterated that the state has an obligation to protect life, which is why abortions must

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<sup>25</sup> Bundesverfassungsgericht [BVerfG], 39 Entscheidungen des Bundesverfassungsgerichts [BVerfGE] 1, <https://perma.cc/V3AK-RU2T> (original), <https://perma.cc/783L-9VKX> (English translation).

<sup>26</sup> Fünfzehntes Strafrechtsänderungsgesetz, May 18, 1976, BGBl. I at 1213, <https://perma.cc/LHW2-CE3H>.

<sup>27</sup> Id. § 218a, para. 1, no. 2, § 218a, para. 2, § 219, para. 2.

<sup>28</sup> Gesetz zum Schutz des vorgeburtlichen/werdenden Lebens, zur Förderung einer kinderfreundlicheren Gesellschaft, für Hilfen im Schwangerschaftskonflikt und zur Regelung des Schwangerschaftsabbruchs [Schwangeren- und Familienhilfegesetz], July 27, 1992, BGBl. I at 1398, art. 13 § 218a, para. 1, <https://perma.cc/WSR8-F4VX>.

<sup>29</sup> Id. art. 13, no. 1, § 218a, para. 4.

<sup>30</sup> Id. art. 13, no. 1, § 218a, paras. 2, 3, § 218b, para. 1.

<sup>31</sup> Gesetz zur Vermeidung und Bewältigung von Schwangerschaftskonflikten [Schwangerschaftskonfliktgesetz], July 27, 1992, BGBl. I at 1398, <https://perma.cc/LE49-JCWK>.

<sup>32</sup> Schwangeren- und Familienhilfegesetz, art. 2, § 24b, para. 1.

<sup>33</sup> BVerfG, BVerfGE 88, 203, <https://perma.cc/2LEG-Z3MP> (original), <https://perma.cc/F5K8-DGP6> (English translation).

stay illegal in principle. It stated that the mother has a fundamental legal obligation to carry the child to term. As abortions may not be lawful, the court decided that there is also no right to be reimbursed for an abortion by health insurance.

In 1995, the wording of the Criminal Code was amended to make it consistent with this decision. The amended section 218a, paragraph 1 listed the cases in which abortions would not fall “within the scope” of the general prohibition of abortions under section 218, thereby avoiding the words “not illegal.” In addition, the justifications for abortions after 12 weeks were amended, and the exception for cases of severe health issues with the child was struck; however, an additional justification in cases of sexual crimes was added. Furthermore, the wording of section 219, explaining the counseling requirements, was changed to put more emphasis on the protection and value of the unborn life. The Pregnancy Conflict Act was amended accordingly. These amendments were included in an omnibus law amending various laws on the matter.<sup>34</sup>

In 2019, section 219a of the Criminal Code on “advertising services for abortions” was amended, clarifying in a new paragraph 4 that doctors, hospitals, and other institutions may, without fear of criminal prosecution, provide objective information that they perform abortions in cases allowed under the Criminal Code. In addition, the amendment allowed referring to information on abortion provided by other listed institutions, such as federal or state agencies, counseling centers, or the German Medical Association, in particular by linking to that information on their website.<sup>35</sup>

On January 25, 2022, German Minister for Justice Marco Buschmann presented a draft act to abolish section 219a on advertising services for abortions completely.<sup>36</sup> An amended draft act was passed by the German Bundestag (parliament) on June 24, 2022<sup>37</sup> and by the German

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<sup>34</sup> Schwangeren- und Familienhilfeänderungsgesetz [SFHÄndG], Aug. 21, 1995, BGBl. I at 1050, <https://perma.cc/5EGH-XFKY>.

<sup>35</sup> Gesetz zur Verbesserung der Information über einen Schwangerschaftsabbruch, Mar. 22, 2019, BGBl. I at 350, <https://perma.cc/GTE7-D4RS>. Information about this amendment can be found in Felicia Stephan, *Germany: Proposed Amendment to the Criminal Code Concerning Advertising Services for Abortion*, Global Legal Monitor, (Mar. 19, 2018), <https://perma.cc/P4T9-JJ5V>, and Jenny Gesley, *Germany: Criminal Law Amendment Allows Doctors to Inform Public of Abortion Services*, Global Legal Monitor (Apr. 22, 2019), <https://perma.cc/UE7J-WES4>.

<sup>36</sup> Referentenentwurf des Bundesministeriums der Justiz. Entwurf eines Gesetzes zur Änderung des Strafgesetzbuches - Aufhebung des Verbots der Werbung für den Schwangerschaftsabbruch (§ 219a StGB), Jan. 25, 2022, <https://perma.cc/N8ED-JWRF>.

<sup>37</sup> Gesetzesbeschluss des Deutschen Bundestages. Gesetz zur Änderung des Strafgesetzbuches - Aufhebung des Verbots der Werbung für den Schwangerschaftsabbruch (§ 219a StGB), zur Änderung des Heilmittelwerbegesetzes, zur Änderung des Schwangerschaftskonfliktgesetzes, zur Änderung des Einführungsgesetzes zum Strafgesetzbuch und zur Änderung des Gesetzes zur strafrechtlichen Rehabilitierung der nach dem 8. Mai 1945 wegen einvernehmlicher homosexueller Handlungen verurteilten Personen, June 24, 2022, <https://perma.cc/SX4Q-PCED>.

Bundesrat, the body through which the German states participate in the legislative process, on July 8, 2022.<sup>38</sup> The law entered into force on July 19, 2022.<sup>39</sup>

## II. Genetic Consultations/Reproduction

There is no single law on genetic consultation and assisted reproduction in Germany; rather, the provisions are spread out over the following various laws.

The German Basic Law (Grundgesetz) has been interpreted as containing an unwritten right to reproduction.<sup>40</sup> The right to reproductive self-determination is derived from the general right of personality, which is codified in article 2, paragraph 1 in conjunction with article 1, paragraph 1 of the Basic Law.<sup>41</sup>

The following are other laws that contain pertinent rules:

- Embryonenschutzgesetz [ESchG], Dec. 13, 1990, BGBl. I at 2746, <https://perma.cc/FZL3-6MXH>. (The law regulates for what purposes and in what ways embryos may be handled.)
  - Amendment of Nov. 11, 2011, BGBl. I at 2228, <https://perma.cc/4KF8-ZYYB>.
- Präimplantationsdiagnostikverordnung [PIDV], Feb. 21, 2013, BGBl. I at 323, <https://perma.cc/53QB-UW8J>. (The ordinance regulates requirements for centers that perform preimplantation genetic diagnosis of embryos and for the ethics commission.)
  - Amendment of July 2, 2018, BGBl. I at 1078, <https://perma.cc/96S4-AS9W>.
- Stammzellengesetz [StZG], June 28, 2002, BGBl. I at 2277, <https://perma.cc/DF78-F3QU>. (The law regulates the import and use of human embryonic stem cells.)
  - Amendment of Nov. 25, 2003, BGBl. I at 2304, <https://perma.cc/A7UT-8VHD>.
  - Amendment of Oct. 31, 2006, BGBl. I at 2407, 2411, <https://perma.cc/66D2-82TC>.
  - Amendment of Aug. 14, 2008, BGBl. I at 1708, <https://perma.cc/3GVX-P4WT>.

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<sup>38</sup> Beschluss des Bundesrates. Gesetz zur Änderung des Strafgesetzbuches - Aufhebung des Verbots der Werbung für den Schwangerschaftsabbruch (§ 219a StGB), zur Änderung des Heilmittelwerbegesetzes, zur Änderung des Schwangerschaftskonfliktgesetzes, zur Änderung des Einführungsgesetzes zum Strafgesetzbuch und zur Änderung des Gesetzes zur strafrechtlichen Rehabilitierung der nach dem 8. Mai 1945 wegen einvernehmlicher homosexueller Handlungen verurteilten Personen, July 8, 2022, <https://perma.cc/U36X-NPNB>.

<sup>39</sup> Gesetz zur Änderung des Strafgesetzbuches - Aufhebung des Verbots der Werbung für den Schwangerschaftsabbruch (§ 219a StGB), zur Änderung des Heilmittelwerbegesetzes, zur Änderung des Schwangerschaftskonfliktgesetzes, zur Änderung des Einführungsgesetzes zum Strafgesetzbuch und zur Änderung des Gesetzes zur strafrechtlichen Rehabilitierung der nach dem 8. Mai 1945 wegen einvernehmlicher homosexueller Handlungen verurteilten Personen, July 11, 2022, BGBl. I at 1082, <https://perma.cc/NA3T-MG5M>.

<sup>40</sup> Grundgesetz [GG], May 23, 1949, BGBl. I at 1, <https://perma.cc/ZTR7-F29M>.

<sup>41</sup> Jens Kersten, *Regulierungsauftrag für den Staat im Bereich der Fortpflanzungsmedizin*, 17 Neue Zeitschrift für Verwaltungsrecht [NVwZ], 1248, 1249 (2018).

- Amendment of Aug. 7, 2013, BGBl. I at 3154, <https://perma.cc/6H65-7EPY>.
- Amendment of July 18, 2016, BGBl. at 1666, <https://perma.cc/2H2M-7EYX>.
- Amendment of Mar. 29, 2017, BGBl. I. at 626, 36, <https://perma.cc/5CMA-ZCP6>.
- Gendiagnostikgesetz [GenDG], July 31, 2009, BGBl. I at 2529, 3672, <https://perma.cc/RZ7R-FB3K>. (The law defines the prerequisites for genetic testing and genetic analysis performed in the context of genetic testing, as well as for the use of genetic samples and data, and for preventing discrimination on the grounds of genetic predisposition.)
  - Amendment of Aug. 7, 2013, BGBl. I at 3154, <https://perma.cc/VS8S-3D64>.
  - Amendment of July 18, 2016, BGBl. I at 1666, <https://perma.cc/6QMF-CN27>.
  - Amendment of Nov. 4, 2016, BGBl. I at 2460, <https://perma.cc/QA7D-JDRZ>.
  - Amendment of Nov. 20, 2019, BGBl. I at 1626, 1644, <https://perma.cc/DCB5-G7Y2>.
  - Amendment of May 4, 2021, BGBl. I at 882, 935, <https://perma.cc/K7SG-RUFA>.

# Italy

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**SUMMARY** Abortion was legalized in Italy by legislation in 1978 following a 1975 Constitutional Court decision. Medically assisted procreation is governed by a 2004 law. Genetic consultation is regulated under an accord between the Minister of Health and the State-Regions Conference.

## I. Abortion

The Italian Constitution does not contain specific provisions regarding human life or abortion.<sup>1</sup>

The legislation regulating abortion in 1945 was the Royal Decree No. 1398 of October 19, 1930, Approval of the Final Text of the Penal Code.<sup>2</sup>

This decree contained the following relevant provisions:

- Article 546, punishing those causing a woman's abortion with her consent, and the woman who consented to the abortion.
- Article 547, punishing a woman who procured an abortion.
- Article 548, punishing incitement to abortion.
- Article 549 paragraph 2, increasing penalties in case of bodily injury or death caused to the woman who obtained an abortion.
- Article 550, punishing those who procured the means to get an abortion for a woman believed to be pregnant.
- Article 551, on reduction of penalties for abortion-related crimes motivated by causes of honor.
- Article 552, punishing acts directed to cause impotence to another person.
- Article 553, punishing anyone who publicly incited anti-procreation practices or made propaganda for them.
- Article 555, punishing health personnel involved in any of these crimes.

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<sup>1</sup> Costituzione della Repubblica Italiana, <https://perma.cc/G7ZX-Y78K>; <https://perma.cc/7LKR-MJ3J> (unofficial English translation with amendments through 2012).

<sup>2</sup> Regio Decreto 19 ottobre 1930, n. 1398, Approvazione del Testo Definitivo del Codice Penale, <https://perma.cc/YC6P-XAKP>.

In 1975, the Italian Constitutional Court ruled that there are no constitutional grounds for holding that the health of the woman and the health of the embryo or fetus are legally equivalent. As a result, the court ordered the government to call for a repealing referendum (*referendum abrogativo*) concerning articles of the Criminal Code, including the crimes of abortion for a consenting woman, instigation of an abortion, abortive acts on a woman considered pregnant, sterilization, and incitement to practices against procreation.<sup>3</sup>

The *referendum abrogativo* was held on May 17, 1978, but its results were inconclusive, as multiple options proposed by several political parties and movements were submitted to the popular will.<sup>4</sup>

Finally, Law No. 194 of May 22, 1978, on the Social Protection of Maternity and on the Voluntary Interruption of Pregnancy recognized the right of a woman to interrupt an unwanted pregnancy, free of charge and in public facilities.<sup>5</sup>

## II. Assisted Reproduction

Law No. 40 of February 19, 2004, addresses medically assisted procreation.<sup>6</sup> The law contains the following relevant provisions:

- The use of medically assisted procreation is allowed if there are no other effective therapeutic methods to address the causes of sterility or infertility.<sup>7</sup>
- The government may direct studies and research on gamete cryopreservation techniques.<sup>8</sup>
- Medically assisted procreation may be used by adult couples who are of the opposite sex, married or cohabiting, fertile-aged, and both living.<sup>9</sup>
- Persons born as a result of medically assisted procreation techniques have the status of legitimate children or recognized children of the couple who used such techniques.<sup>10</sup>
- Fathers of children born using medically assisted procreation techniques may not deny their paternity.<sup>11</sup>

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<sup>3</sup> Corte costituzionale, Feb. 18, 1975, No. 27, <https://perma.cc/LPY7-L44D>.

<sup>4</sup> 17 maggio 1978: *l'Italia al Voto per il Referendum sull'Aborto*, Corriere della Sera, <https://perma.cc/UT25-WRX9>.

<sup>5</sup> Legge 22 maggio 1978, n. 194 *Norme per la Tutela Sociale della Maternità e sull'Interruzione Volontaria della Gravidanza*, <https://perma.cc/Y46J-WK8B>. The law's provisions are summarized in Law Library of Congress, *Abortion Legislation in Europe 21-22* (2015), <https://perma.cc/2AEX-DHCP>. For a history of abortion in Italy from ancient times to Law No. 194 of 1978, see Antonio Pagliuso, *La Storia dell'Aborto: dall'Antichità Fino alla Legge N°194*, Vanilla Mag., <https://perma.cc/N5B5-AB9B>.

<sup>6</sup> Legge 19 febbraio 2004, n. 40, *Norme in Materia di Procreazione Medicalmente Assistita*, <https://perma.cc/3BQG-92SF>.

<sup>7</sup> Arts. 1.2, 4.1.

<sup>8</sup> Art. 2.1.

<sup>9</sup> Art. 5.

<sup>10</sup> Art. 8.1.

<sup>11</sup> Art. 9.1.

- Any experimentation on a human embryo is prohibited, except for exclusively therapeutic and diagnostic purposes aimed at protecting the health and development of the embryo itself, when no alternative methodologies are available.<sup>12</sup>
- Cryopreservation of embryos is prohibited.<sup>13</sup> However, when a woman's serious and documented health condition that was unforeseeable at the time of fertilization prevents implantation of embryos into her uterus, the cryopreservation of the embryos is allowed up to the date of implantation, which must be carried out as soon as possible.
- Embryo production techniques must not create a number of embryos greater than that strictly necessary for a single and simultaneous implant, in any case not exceeding three.<sup>14</sup>
- Except as provided in Law No. 194, embryo reduction in the case of multiple pregnancies is prohibited.<sup>15</sup>

Decisions by Italy's Constitutional Court have found some provisions of Law No. 40 unconstitutional, including the ban on producing more than three embryos at a time and the ban on cryopreservation.<sup>16</sup>

### III. Genetic Consultation

There are no laws directly regulating genetic consultation in Italy.

Genetic consultation has been subject to an accord adopted by the Minister of Health and the State-Regions Conference.<sup>17</sup> This accord has been implemented by the Ministry of Labor, Health, and Social Policies through a document approved by the Ministerial Commission for Genetics of the National Health Service.<sup>18</sup>

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<sup>12</sup> Art. 13.1-2.

<sup>13</sup> Art. 14.1.

<sup>14</sup> Art. 14.2.

<sup>15</sup> Art. 14.4.

<sup>16</sup> A summary of Constitutional Court decisions addressing Law No. 40 is found in Ginaluca Montanari Vergallo et al., *How the Legislation on Medically Assisted Procreation Has Evolved in Italy*, 36 *Med. & L.* 5 (2017), <https://perma.cc/A6RC-VMZK> (available on HeinOnline).

<sup>17</sup> Accordo 15 luglio 2004, Accordo, tra il Ministro della salute, le regioni e le province autonome di Trento e Bolzano, sul documento recante: Linee-guida per le attività di genetica medica, (Accordo ai sensi dell'art. 4, DLvo 28 agosto 1997, n. 281), *Gazzetta Ufficiale* n. 224, Sept. 23, 2004, <https://perma.cc/4Q88-5TRV>.

<sup>18</sup> Commissione Ministeriale per la Genetica nel Servizio Sanitario Nazionale, Ministero del Lavoro, della Salute e delle Politiche Sociali, *Relazione della Commissione ministeriale per la Genetica nel Servizio sanitario nazionale* (Dec. 18, 2008), <https://perma.cc/9SRP-2WVS>.

# Netherlands

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**SUMMARY** The law in the Netherlands currently provides that abortion is not punishable before viability if statutory requirements set out in the Act on the Termination of Pregnancy are complied with, including consultation with a doctor. However, the prosecution will not file charges for late-term abortions when there were “fundamentally grave health conditions of the child.” Provisions on genetic consultation and reproduction are spread among a number of laws.

## I. Abortion

In 1911, the Act to Combat Immorality (*Wet tot bestrijding van zedeloosheid*) amended the Dutch Criminal Code to insert a new section that classified abortion, which was already prohibited as a homicide, as also an offense against public morals, thereby increasing the punishment.<sup>1</sup>

The Criminal Code (*Wetboek van Strafrecht*) as in effect in 1947 prohibited abortion for the woman<sup>2</sup> and for others,<sup>3</sup> without exceptions. However,

[i]n the early 1940s, Amsterdam court rulings stipulated that an induced abortion necessary to save a woman’s life was not illegal and also accepted that a woman’s psychological state could be legally considered life-threatening. This jurisprudence resulted in a 1950s court ruling that legalized abortion to preserve a pregnant woman’s mental health. In 1971, Dutch state prosecutors’ office decided to refrain from prosecuting physicians who induced abortion on grounds of the pregnant woman’s social well-being. While such abortions remained illegal, the decision led to a de facto legalization of abortion for reasons of social well-being.<sup>4</sup>

In 1984, the Act on the Termination of Pregnancy (*Wet afbreking zwangerschap*, *Wafz*) entered into force and amended the Criminal Code.<sup>5</sup> Performing an abortion on someone remained illegal.<sup>6</sup> However, abortions became “not punishable” as long as they follow the requirements set

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<sup>1</sup> *Wet tot bestrijding van zedeloosheid*, May 20, 1911, *Staatsblad van het Koninkrijk der Nederlanden* [Stb.] 1911, no. 130, § 251bis, <https://perma.cc/TNR4-8PJ4>.

<sup>2</sup> *Wetboek van Strafrecht*, Mar. 3, 1881, Stb. 1881, no. 35, art. 296 (as in force in 1947).

<sup>3</sup> *Id.* arts. 297, 298 (1947).

<sup>4</sup> Mark Levels et al., *Unintended Pregnancy and Induced Abortion in the Netherlands 1954-2002*, 28 *Eur. Soc. Rev.* 301, 305 (2012), <https://perma.cc/4GD9-NCUC>.

<sup>5</sup> *Wet afbreking zwangerschap* [Wafz], May 1, 1981, Stb. 1981, no. 257, as amended, <https://perma.cc/A7SE-S43E> (original), <https://perma.cc/K72L-Y23F> (unofficial English translation).

<sup>6</sup> *Wetboek van Strafrecht*, Mar. 3, 1881, Stb. 1881, no. 35, as amended, art. 296, para. 1, <https://perma.cc/9A6T-SM2X>.

out in the Act on the Termination of Pregnancy.<sup>7</sup> Abortions are allowed until the fetus is viable on its own (around 24 weeks); an abortion after viability is considered killing a human being.<sup>8</sup> The Act on the Termination of Pregnancy currently requires a five-day waiting period after consultation with a doctor before an abortion can be performed; however, the mandatory waiting period will be abolished soon.<sup>9</sup> The act states that an abortion must only take place when a “woman’s emergency situation makes it unavoidable.”<sup>10</sup>

In 2016, a policy rule (*Beleidsregel*) for late-term abortions, meaning after week 24, entered into force, which allowed abortions when there were “fundamentally grave health conditions of the child.” The policy rule did not change the law, but it was a guideline and determined conditions under which the prosecution would not file charges. It clarified that in cases in which a child was not viable on its own due to a severe medical condition, the abortion did not fall under article 82a of the Criminal Code and was allowed as long as it complied with the requirements of the Act on the Termination of Pregnancy.<sup>11</sup>

On February 22, 2022, a majority in the House of Representatives of the Dutch parliament (Tweede Kamer) voted to abolish the five-day waiting period for abortions.<sup>12</sup> On June 21, 2022, the Senate (Eerste Kamer) agreed to abolish the waiting period.<sup>13</sup> It is expected that the amendment will enter into force in January 2023.<sup>14</sup>

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<sup>7</sup> Id. art. 296, para. 5.

<sup>8</sup> Id. art. 82a.

<sup>9</sup> Wafz, art. 3, para. 1. See below for the amendment to the Act on the Termination of Pregnancy.

<sup>10</sup> Id. art. 5.

<sup>11</sup> The version of the policy rule in force from 2016 to 2017 is *Aanwijzing vervolgingsbeslissing levensbeëindiging niet op verzoek en late zwangerschapsafbreking*, Staatscourant [Stcrt.] 2012, 26896, <https://perma.cc/6D5F-PX7S>. The current version of the policy rule is *Aanwijzing vervolgingsbeslissing inzake late zwangerschapsafbreking en levensbeëindiging bij pasgeborenen*, Stcrt. 2017, 69445, <https://perma.cc/8NWA-EX65>. See also *Euthanasia and Newborn Infants*, Government of the Netherlands, <https://perma.cc/ML9B-4AD3>; Wendy Zeldin, *Netherlands: New Regulation on Late-Term Abortions and Terminations of Lives of Neonates*, *Global Legal Monitor* (Jan. 15, 2016), <https://perma.cc/2XD8-9N9K>.

<sup>12</sup> *MPs Vote Overwhelmingly to Abolish Five-Day Abortion Wait in a Free Vote* (Feb. 10, 2022), DutchNews.nl, <https://perma.cc/S3S8-Z8BN>. The parliamentary paper on the amendment is *Voorstel van wet van het lid Pia Dijkstra tot wijziging van Wet afbreking zwangerschap in verband met het afschaffen van de verplichte minimale beraadtermijn voor de afbreking van zwangerschappen*, Feb. 25, 2021, file no. 35737, <https://perma.cc/5Q97-X6A7>.

<sup>13</sup> Press Release, Eerste Kamer, *Steun voor afschaffen verplichte beraadtermijn abortus* (June 21, 2022), <https://perma.cc/4UXD-9DRA>.

<sup>14</sup> *Senate Agrees to Abolish Mandatory 5-day Abortion Waiting Period* (June 21, 2022), nltimes.nl, <https://perma.cc/TF35-ZP98>.

## II. Genetic Consultations/Reproduction

There is no single law on genetic consultation and reproduction in the Netherlands; rather, the provisions are spread out over various laws.

The Dutch Constitution (Grondwet) has been interpreted as containing an unwritten right to reproduction.<sup>15</sup>

The following are other laws that contain pertinent rules:

- Embryowet [EW], June 20, 2002, Stb. 2002, 338, as amended, <https://perma.cc/N76D-EFMX>. (Contains rules on selected reproductive technologies and a catalog of prohibited measures.)
  - Amendment history: <https://perma.cc/SCY8-X2C6>.
- Wet foetaal weefsel, Nov. 8, 2001, Stb. 2001, 573, as amended, <https://perma.cc/HAQ4-TJN3>. (Complements the EW and elaborates which reproductive methods are legal or illegal.)
  - Amendment history: <https://perma.cc/T4LQ-QCZV>.
- Wet op bijzondere medische verrichtingen [WBMV], Oct. 24, 1997, Stb. 1997, 515, as amended, <https://perma.cc/F5YX-MHX7>, and the Wet op de beroepen in de individuele gezondheidszorg, Nov. 11, 1993, Stb. 1993, 655, as amended, <https://perma.cc/QUT5-XFUU>. (The two laws contain rules on authorization requirements for the performance of artificial inseminations for doctors and specific centers.)
  - Amendment history of the WBMV: <https://perma.cc/DG6X-THYG>.
  - Amendment history of the Wet op de beroepen in de individuele gezondheidszorg: <https://perma.cc/96YD-93XG>.
- Wet donorgegevens kunstmatige bevruchting [WDKB], Apr. 25, 2002, Stb. 2002, 240, as amended, <https://perma.cc/BWZ2-82H6>. (Contains rules on handling donor data for sperm, egg cell, and embryo donations. An amendment in 2004 abolished the possibility of anonymous donations.)
  - Amendment history of the WDKB: <https://perma.cc/36ZQ-F4MY>.
- Planningsbesluit in-vitrofertilisatie 2016, June 27, 2016, Stcrt. 2016, 33598, as amended, <https://perma.cc/2T76-M2QH>. (Contains further rules on certain aspects of in-vitro fertilization.)
  - Amendment history: <https://perma.cc/X779-AWC2>.

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<sup>15</sup> Grondwet, Aug. 24, 1815, Stb. 1815, no. 45, as amended, <https://perma.cc/J56E-US2X>; Philipp M. Reuß, *Künstliche Fortpflanzung im niederländischen Recht*, in *Künstliche Fortpflanzung und europäisches Familienrecht*, at 128-129 (Anatol Dutta et al. eds. 2015).

# Poland

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**SUMMARY** A 1956 law legalized abortion by doctors for specified reasons, including the woman's "difficult living conditions." The 1993 Anti-Abortion Law significantly curtailed the circumstances abortions can be performed. Assisted reproduction is regulated by the 2015 Act on Infertility Treatment.

The 1997 Constitution of Poland guarantees everyone the right to legal protection of their private and family life.<sup>1</sup> It also obliges the public authorities to provide equal access to health care to all citizens, and special health care for pregnant women.<sup>2</sup>

## I. Abortion

Under the 1932 Polish Criminal Code, a woman having an abortion and any person assisting her could be criminally liable.<sup>3</sup> Abortion was permitted only when the mother's health was at risk or if the pregnancy resulted from a crime such as rape or incest.<sup>4</sup>

A new law governing abortions was enacted in 1956.<sup>5</sup> It legalized abortion by doctors for medical reasons, a pregnant woman's "difficult living conditions," or pregnancies resulting from a crime.<sup>6</sup> Abortions on medical and social grounds required certification by a physician. That pregnancy resulted from a crime required certification by a prosecutor.<sup>7</sup>

In 1959, a regulation to implement the 1956 law provided among other things that abortion could be performed in public hospitals and private clinics.<sup>8</sup>

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<sup>1</sup> Pol. Const. 1997, art. 47, <https://perma.cc/HZ7Y-ZS87> (English trans.).

<sup>2</sup> Id. art. 68.

<sup>3</sup> Pol. Crim. Code arts. 231, 232 (1932), <https://perma.cc/29SM-V7Q3> (in Polish).

<sup>4</sup> Id. art. 233.

<sup>5</sup> Act of Apr. 27, 1956, on the Conditions for the Admissibility of Termination of Pregnancy, <https://perma.cc/8WPP-ASXM> (in Polish).

<sup>6</sup> Id. art. 1.

<sup>7</sup> Id. art. 2.

<sup>8</sup> Regulation of the Minister of Health of Dec. 19, 1959, on Termination of Pregnancy, arts. 2(1), 3, <https://perma.cc/87ZZ-YCRZ> (in Polish).

Following the fall of the communist regime, a 1990 ordinance governing abortions made obtaining abortions more difficult. While it did not restrict the grounds for abortion, it provided that authorization of abortions required approval by three physicians and a psychologist.<sup>9</sup>

The law that presently governs abortions in Poland, commonly known as the Anti-Abortion Law, was enacted in 1993.<sup>10</sup> It eliminated difficult living conditions as a justification for abortion, and imposes restrictions and procedural requirements similar to those existing under the 1932 Criminal Code. Abortion is allowed if the life or health of the pregnant woman is at risk, the fetus is seriously damaged, or the pregnancy is the result of a crime.<sup>11</sup> These grounds must be ascertained by a physician other than the one performing the procedure, or, in the case of a crime, by a prosecutor.<sup>12</sup> The law requires government agencies to provide pregnant women with medical, social, and legal aid,<sup>13</sup> and must provide citizens with “free access to methods and means of conscious procreation.”<sup>14</sup>

The country’s law on abortion was amended in 1996 following a change in government. Difficult living conditions were reinstated as a reason for a legal abortion, subject to counseling and a three-day waiting period.<sup>15</sup> The new law was challenged in the Constitutional Tribunal, which decided that abortion on social grounds was unconstitutional.<sup>16</sup>

On October 22, 2020, the Polish Constitutional Tribunal found that article 4(a)(1.2) of the Anti-Abortion Law of 1993, allowing pregnancies to be terminated when there is a high probability of a severe or irreversible fetal impairment or when the fetus is diagnosed with an incurable and life-threatening disease, is unconstitutional. The judgment declared that the provision is inconsistent with article 38 of the Polish Constitution (legal protection of the life of every person),

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<sup>9</sup> Ordinance of the Minister of Health and Social Welfare of April 30, 1990, on the Professional Qualifications of Doctors Performing an Abortion and the Procedure for Issuing Medical Certificates on the Admissibility of Such a Procedure, sec. 2(2), <https://perma.cc/N4X9-5W4M> (in Polish).

<sup>10</sup> Act on Family Planning, Human Fetus Protection, and Conditions of Admissibility of Abortion of Jan. 7, 1993, effective Mar. 14, 1993 (Anti-Abortion Act), <https://perma.cc/WE8Z-YM9C> (original, in Polish), <https://perma.cc/C8EV-L438> (consolidated text), <https://perma.cc/798M-J57H> (unofficial English translation).

<sup>11</sup> Id. art. 4a.1.

<sup>12</sup> Id. art. 4a.5.

<sup>13</sup> Id. art. 2.1.

<sup>14</sup> Id. art. 2.2.

<sup>15</sup> Act of Aug. 30, 1996, Amending the Act on Family Planning, Protection of the Human Fetus, and Conditions for the Admissibility of Termination of Pregnancy and Amending Certain Other Acts, effective Apr. 1, 1997, <https://perma.cc/WP5G-3HA7>.

<sup>16</sup> Judgment of the Constitutional Tribunal of May 28, 1997, Case No. 26/96, on the Incompatibility with the Constitution of Article 1.2 and .5, Article 2.2, and Article 3.1 and .4 of the Act of Aug. 30, 1996, Amending the Act on Family Planning, the Protection of the Human Fetus, and the Conditions for Permitting Termination of Pregnancy and Amending Certain Other Acts, No. 2441 of June 16, 1997, <https://perma.cc/WFG4-WN6C> (in Polish).

considered in connection with article 30 (inviolable human dignity as a source of all liberties and rights).<sup>17</sup>

Polish law provides for medical professionals to decline to perform abortions, except in emergencies where delay could cause loss of life or severe injury.<sup>18</sup>

Illegal abortions are subject to punishment under the 1997 Criminal Code. Persons who provide illegal abortions, or those who help a pregnant woman terminate her pregnancy, are subject to deprivation of liberty up to three years; if an abortion is performed on a fetus after viability, the penalty is up to eight years.<sup>19</sup>

## II. Reproductive Laws /Genetic Consultations

In Poland, medically assisted reproduction is regulated by the Act on Infertility Treatment, enacted in 2015.<sup>20</sup> The law limits assisted reproduction to those with clinically proven infertility.<sup>21</sup> It prohibits the destruction of embryos.

Thus, every embryo capable of proper development must be transferred into a uterus. In order to prevent the creation of surplus embryos on a scale that would make transferring them impossible, only six oocytes can be fertilized unless other IVF attempts were unsuccessful. The act also creates a ban on handing embryos over for scientific research.<sup>22</sup>

The law limits access to assisted reproduction to heterosexual couples. Men participating in assisted reproduction must certify to the civil registry that they will undertake all parental duties, including alimony, and not deny paternity.<sup>23</sup>

The law permits preimplantation genetic diagnosis only for couples who are receiving assisted reproduction and have genetic indications. Embryos with confirmed malformations may be destroyed.<sup>24</sup>

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<sup>17</sup> Judgment of the Constitutional Tribunal of Oct. 22, 2020, Case No. 1/20, on the Act of Jan. 7, 1993, on Family Planning, Protection of the Human Fetus, and Conditions for Permitting Termination of Pregnancy, <https://perma.cc/M42B-3VAC> (in Polish). Applications are pending before the European Court of Human Rights asserting this decision violates the European Convention of Human Rights. See, e.g., *K.B. v. Poland* and three other applications, Application No. 1819/21, July 1, 2021, <https://perma.cc/EKA8-Q54E>.

<sup>18</sup> Medical Profession Act of Dec. 5, 1996, art. 30, <https://perma.cc/WPY7-R422> (in Polish); Act of July 5, 1996, on the Professions of Nurse and Midwife, art. 23, <https://perma.cc/N7W6-2PS6> (in Polish).

<sup>19</sup> Criminal Code, art. 152 (1997), <https://perma.cc/3V55-LCZP> (unofficial English translation).

<sup>20</sup> Act of June 25, 2015, on Infertility Treatment, effective Nov. 1, 2015, <https://perma.cc/6SKW-8SFZ>.

<sup>21</sup> Anna Krawczak & Magdalena Radkowska-Walkowicz, *IVF in Poland: From Political Debates to Biomedical Practices*, in *The Regulation of Assisted Reproductive Technologies in Europe: Variation, Convergence and Trends* 137, 140 (Erich Griessler et al. eds., 2022).

<sup>22</sup> *Id.* at 138.

<sup>23</sup> *Id.* at 139.

<sup>24</sup> *Id.* at 140.

Also, the Anti-Abortion Act directs government agencies to provide citizens with free access to information about the risks of genetic or developmental fetal defects or an incurable illness that imperils the fetus's life.<sup>25</sup>

The Code of Medical Ethics imposes obligations on doctors relating to procreation.<sup>26</sup> When treating a pregnant woman, a physician must also make efforts to maintain the health and life of her fetus.<sup>27</sup> A physician is obliged to familiarize patients with information on modern genetic medicine and prenatal diagnostics and therapy, as well as the risks related to prenatal examinations and tests.<sup>28</sup> The code guarantees physicians freedom of professional action in accordance with their conscience and modern medical knowledge.<sup>29</sup> The code also prohibits physicians from participating in the cloning of humans for reproductive or therapeutic purposes.<sup>30</sup>

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<sup>25</sup> Anti-Abortion Act, art. 2.

<sup>26</sup> National Congress of Doctors, *Code of Medical Ethics* (June 18, 2013), <https://perma.cc/5M6C-UP7F> (in Polish).

<sup>27</sup> Id. art. 39.

<sup>28</sup> Id. art. 38.3.

<sup>29</sup> Id. art. 4.

<sup>30</sup> Id. art. 39a.

# Portugal

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## I. Abortion

Until 1984, abortion was prohibited in Portugal. Law No. 6 of May 11, 1984, amended the Penal Code of 1982 to allow abortion in specified circumstances.<sup>1</sup> The amendment allowed abortion by a doctor with the woman's consent:

- when it is the only means of removing a danger of death or serious and irreversible injury to the body or physical or mental health of the pregnant woman,<sup>2</sup>
- in the first 12 weeks of pregnancy when it is indicated to avoid the danger of serious and lasting damage to the physical and psychological health of the woman,<sup>3</sup>
- in the first 16 weeks in cases of fetal malformation,<sup>4</sup> and
- in the first 12 weeks when the pregnancy resulted from rape.<sup>5</sup>

In 1997, the revised Penal Code of 1995<sup>6</sup> was amended by Law No. 90 of July 30, 1997.<sup>7</sup> The amendment extended the allowable period for an abortion in cases of fetal malformation to 24 weeks, or at any time for nonviable fetuses.<sup>8</sup> Where pregnancy resulted from a crime against women's sexual freedom and self-determination, termination could be carried out in the first 16 weeks.<sup>9</sup>

In 2007, after a national referendum,<sup>10</sup> Law No. 16 of April 17, 2007,<sup>11</sup> again amended the Penal Code, to enable a woman to obtain an abortion on her request in the first 10 weeks.<sup>12</sup>

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<sup>1</sup> Lei No. 6/84, de 11 de Maio, <https://perma.cc/RT3K-5SC5>, amending the Penal Code of 1982 (Código Penal [C.P.], Decreto-Lei No. 400/82, de 23 de Setembro, <https://perma.cc/SFE3-8DET>).

<sup>2</sup> Lei No. 6/84, art. 1 (amending C.P. art. 140(1)(a)).

<sup>3</sup> Id. (amending C.P. art. 140(1)(b)).

<sup>4</sup> Id. (amending C.P. art. 140(1)(c)).

<sup>5</sup> Id. (amending C.P. art. 140(1)(d)).

<sup>6</sup> Código Penal [C.P.], Decreto-Lei No. 48/95, de 15 de Março, <https://perma.cc/8GMX-8WLJ>.

<sup>7</sup> Lei No. 90/97, de 30 de Julho, <https://perma.cc/SD3Q-9V8Q>.

<sup>8</sup> Id. (amending C.P. art. 142(1)(c)).

<sup>9</sup> Id. (amending C.P. art. 142(1)(d)).

<sup>10</sup> Comissão Nacional de Eleições, Referendo Nacional, <https://perma.cc/K5GU-5DJ4>.

<sup>11</sup> Lei No. 16/2007, de 17 de Abril, <https://perma.cc/NQ6V-WNQU>.

<sup>12</sup> Id. art. 1 (amending C.P. art. 142(1)(e)).

## II. Genetic Consultation

Law No. 12 of January 26, 2005, “defines the concept of health information and genetic information, the circulation of information and the intervention on the human genome in the health system, as well as the rules for the collection and conservation of biological products for the purposes of genetic testing or research.”<sup>13</sup>

Decree-Law No. 131 of August 29, 2014, of the Ministry of Health<sup>14</sup> regulates Law No. 12 of January 26, 2005, with regard to the protection and confidentiality of genetic information, human genetic databases for the purpose of provision of health care and health research, and the conditions for offering and carrying out genetic tests and the terms under which medical genetics consultation is offered.

## III. Reproduction

Medically Assisted Procreation (*Procriação Medicamente Assistida*, PMA) became regulated in 2006 by Law No. 32,<sup>15</sup> which also created the National Council of Medically Assisted Procreation as a regulatory body for the practice of this activity. In June 2016, Law No. 17/2016<sup>16</sup> amended Law N. 32 and extended the scope of beneficiaries, guaranteeing access for all women to PMA techniques.

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<sup>13</sup> Lei. No. 12/2005, de 26 de Janeiro, art. 1, <https://perma.cc/XRN9-NE8L>.

<sup>14</sup> Ministério da Saúde, Decreto-Lei No. 131/2014, de 29 de Agosto, art. 1, <https://perma.cc/49ZT-ZGP7>.

<sup>15</sup> Lei No. 32/2006, de 26 de julho, <https://perma.cc/3DJA-P7ZV>.

<sup>16</sup> Lei No. 17/2016, de 20 de Junho, <https://perma.cc/5WL9-G2HH>.

# Romania

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**SUMMARY** Abortion was legalized in Romania in 1957, but that policy was reversed in 1966. On January 1, 1990, abortion on request during the first 14 weeks of pregnancy became legal. Romania does not have stand-alone legislation on medically assisted reproduction, but the Civil Code includes some relevant provisions.

## I. Abortion

Historically, the Penal Code of Romania prohibited abortions except in limited circumstances. A woman who caused her own abortion she could be imprisoned for three to six months, or for six months to a year if she was married. An abortion provider could be sentenced from one to three years.<sup>1</sup>

An abortion was not illegal if it was carried out by a doctor “[w]hen the woman’s life was in imminent danger or when the pregnancy aggravated the woman’s disease, putting her life in danger,” or when one of the parents suffered from insanity and “it was certain that the child would bear serious mental flaws.”<sup>2</sup> In the case of an abortion because of imminent danger to the woman, the doctor was obliged to notify the prosecutor’s office in writing within 48 hours.<sup>3</sup>

Decree No. 463 of Sept. 25, 1957, legalized abortion on demand in Romania, if requested by the pregnant woman during the first trimester and carried out in a medical institution under the supervision of qualified personnel. After three months of pregnancy, abortion was available for medical indications only.<sup>4</sup>

Decree No. 770 of October 1, 1966, on Measures to Regulate Pregnancy Interruption, mostly reversed the 1957 liberalization. Abortion was forbidden unless the pregnancy was a danger to the woman’s life, one parent had a transmissible genetic disease, the woman was 45 years of age or older, the woman had borne and had in her care four or more children, or the pregnancy was a result of incest or rape.<sup>5</sup>

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<sup>1</sup> Criminal Code of 1936, as in force through Feb. 1, 1948, art. 482, para. 2, <https://perma.cc/4XPF-E7U4> (in Romanian).

<sup>2</sup> Art. 484, paras. 1 and 2.

<sup>3</sup> Id.

<sup>4</sup> Decree No. 463 of Sept. 25, 1957, on Legalizing Interruption of Pregnancy, <https://perma.cc/732S-DM64> (in Romanian).

<sup>5</sup> Decree No. 770 of Oct. 1, 1966, to Regulate Pregnancy Interruption, arts. 1, 2, <https://perma.cc/4DUE-88QZ> (in Romanian).

The crime of abortion was governed by articles 185–188 of the Penal Code of 1968.<sup>6</sup> Article 185 (titled “Illegally Induced Abortion”) made providing an abortion with the consent of the woman by any means outside the conditions permitted by law punishable by imprisonment from one to three years.<sup>7</sup> A woman who self-induced an abortion, or who consented to an abortion provided by someone else, could be imprisoned for six months to two years.<sup>8</sup>

Decree No. 52 of February 16, 1972, lowered the age at which women could legally obtain abortion from 45 to 40.<sup>9</sup> But Decree No. 411 of December 26, 1985 returned that age back to 45, and also increased the number of children the woman was required to have borne and had in her care to be eligible for an abortion from four to five.<sup>10</sup>

In 1989, immediately following the overthrow of the dictatorship of Nicolae Ceausescu, the provisional government enacted Decree-Law No. 1 of December 26, 1989, which repealed Decree 770/1966 and articles 185-188 of the Penal Code.<sup>11</sup> Effective January 1, 1990, abortion on request during the first 14 weeks of pregnancy became legal.<sup>12</sup>

On November 5, 1996, Law 140/1996 reinstated article 185 into the Penal Code to specify what forms of abortion were contrary to the criminal law.<sup>13</sup> It provided that abortions performed outside authorized medical facilities, or by a person other than a qualified physician, or later than 14 weeks into the pregnancy, were a crime subject to imprisonment from six months to three years; abortions by doctors necessary to save the life or health of the mother or for legally recognized therapeutic reasons were not illegal.<sup>14</sup>

Provisions similar to those in the 1996 law are now codified at article 201 of the Penal Code of 2009, which entered into force in 2014.<sup>15</sup> The code also specifies that women shall not be punished for having an abortion.<sup>16</sup>

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<sup>6</sup> Penal Code of June 21, 1968, <https://perma.cc/K4EH-LQRJ> (in Romanian).

<sup>7</sup> Id. art. 185.

<sup>8</sup> Id. art. 186.

<sup>9</sup> Decree No. 53 of 16 Feb. 1972 for the Amendment of Article 2 Letter d of Decree no. 770/1966 for Regulation of Abortion, <https://perma.cc/5WD3-F59H> (in Romanian).

<sup>10</sup> Decree No. 411 for the Amendment of Article 2 of Decree No. 770/1966 for the Regulation of Abortion, <https://perma.cc/6EN8-VAKY> (in Romanian).

<sup>11</sup> Decree-Law No. 1 Regarding the Abrogation of Certain Laws, Decrees, and Other Normative Acts, <https://perma.cc/L7ZN-38FQ> (in Romanian).

<sup>12</sup> Charlotte Hord et al., *Reproductive Health in Romania: Reversing the Ceausescu Legacy*, 22 *Studies in Family Planning* 231 (1991) (citing Order No. 605 of Dec. 27, 1989) (available on JSTOR subscription database).

<sup>13</sup> Law No. 140 of Nov. 5, 1996, on Amending and Supplementing the Criminal Code, <https://perma.cc/7N2L-T82M> (in Romanian).

<sup>14</sup> Penal Code of June 21, 1968, republished Apr. 16, 1997, art. 185, <https://perma.cc/X8PG-VTXF> (in Romanian).

<sup>15</sup> Penal Code of July 17, 2009, Law No. 286/2009, as updated on Feb. 27, 2017, <https://perma.cc/2L42-D3G2> (unofficial English translation).

<sup>16</sup> Id. art. 201(7).

## II. Reproductive Laws/ Genetic Consultations

Romania does not have stand-alone legislation specifically addressing medically assisted reproduction (MAR).

The Civil Code of 1989, which entered into effect on October 1, 2011,<sup>17</sup> contains provisions relating to several bioethical issues,<sup>18</sup> including some provisions on MAR. It provides that MAR is available only to heterosexual couples or single women, not homosexual couples.<sup>19</sup> Parents seeking MAR must provide prior consent; such consent expires in the event of death, divorce or separation, and may be revoked in writing.<sup>20</sup> The filiation of the child to the parents who provided consent to MAR cannot be challenged, and an out-of-wedlock father who consents to MAR shall be liable to the mother if he refuses to recognize the child.<sup>21</sup> A father has the same rights and obligations toward a child conceived through MAR as one conceived naturally.<sup>22</sup>

The Civil Code provides for the donor's confidentiality, but there is an exception where there is a risk of serious harm to the health of a person conceived through MAR or of that person's descendants; in such case a court may authorize the confidential transmission of relevant information to a doctor or competent authorities.<sup>23</sup> Moreover, descendants of a person conceived through MAR may exercise the right to information about the donor if being deprived of such information may seriously harm their health.<sup>24</sup>

The Civil Code also includes provisions relating to genetic interventions, but does not specifically address genetic counseling. The code prohibits any intervention to modify the genetic traits of a person's offspring, except to prevent disease.<sup>25</sup> It also prohibits cloning, as well as the creation of human embryos for research purposes.<sup>26</sup> It prohibits choosing the sex of an embryo except to prevent a genetic disease.<sup>27</sup> Examining a person's genetic characteristics may only be done for medical or scientific purposes and in a manner permitted by law.<sup>28</sup> Identifying a person through

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<sup>17</sup> Civil Code of July 17, 2009, Law No. 287/2009, <https://perma.cc/B8HH-57TD>.

<sup>18</sup> Ana Juanita Goicovici, *Ethics of Biomedical Activities, in the Light of the New Civil Code*, 10 Romanian J. Bioethics 129 (2012) (available on Proquest Central subscription database).

<sup>19</sup> Civil Code art. 441(3) (defining "parents" for purposes of the section on MAR as only a man and a woman or a single woman).

<sup>20</sup> Id. art. 442.

<sup>21</sup> Id. arts. 443, 444.

<sup>22</sup> Id. art. 446.

<sup>23</sup> Id. art. 445(2).

<sup>24</sup> Id. art. 445(3).

<sup>25</sup> Id. art. 63(1).

<sup>26</sup> Id. art. 63(2).

<sup>27</sup> Id. art. 63(3).

<sup>28</sup> Id. art. 65(1).

their genetic characteristics is permitted only in a civil or criminal judicial proceeding, or for medical or scientific research purposes, in accordance with law.<sup>29</sup>

A bill on MAR was introduced and adopted by the Romanian Senate in 2012, but was ultimately rejected by the Chamber of Deputies in 2016.<sup>30</sup>

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<sup>29</sup> Id. art. 65(2).

<sup>30</sup> Draft Law on Medically Assisted Reproduction with a Third-Party Donor, PL-x no. 63/2012, <https://perma.cc/K7MC-JAJC> (in Romanian).

# Spain

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## I. Abortion

Until 1985, abortion was a crime in Spain under all circumstances.<sup>1</sup> Law 9/1985 de-criminalized abortion in only three cases: at any time if there were a serious danger to the life or physical or mental health of the pregnant woman, during the first 12 weeks in a case of rape, and within 22 weeks if the fetus would be born with serious physical or mental defects. The law punished those who aborted outside these three circumstances by six months to one year in prison.<sup>2</sup>

Organic Law 2/2010 on Sexual and Reproductive Health and the Voluntary Interruption of Pregnancy went into effect in 2010.<sup>3</sup> It allows abortion without restriction in the first 14 weeks,<sup>4</sup> within 22 weeks if there is serious risk to the life or health of the pregnant woman or risk of serious abnormalities in the fetus, and at any time if fetal abnormalities incompatible with life are detected or when an extremely serious and incurable disease is detected in the fetus.<sup>5</sup> It requires that the woman be informed about the rights, benefits, and public aid available to support maternity and that a period of three days elapse from receiving the information until the intervention is carried out.<sup>6</sup>

In the case of serious risk to the life or health of the pregnant woman, an opinion from a doctor other than the one performing the abortion is necessary, except in life-threatening emergencies.<sup>7</sup> In the case of risk of serious anomalies in the fetus or fetal anomalies incompatible with life, a report from two specialists is necessary.<sup>8</sup> If the fetus is found to have an extremely serious and incurable disease, this has to be confirmed by a clinical committee.<sup>9</sup>

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<sup>1</sup> Abortion was legal in Catalonia for a brief period from December 1936 until the Franco regime. Mary Nash, *Pronatalism and Motherhood in Franco's Spain*, in *Maternity and Gender Policies: Women and the Rise of the European Welfare States, 1880s-1950s*, 160, 161-62 (1991).

<sup>2</sup> Ley Orgánica 9/1985 de Reforma del Art. 417 del Código Penal, Boletín Oficial del Estado (B.O.E., Official Gazette) July 12, 1985, <https://perma.cc/UT7W-GF6J>.

<sup>3</sup> Ley Orgánica 2/2010 de Salud Sexual y Reproductiva y de la Interrupción Voluntaria del Embarazo, BOE Mar. 4, 2010, <https://perma.cc/2S5Q-8QAL> (original); <https://perma.cc/4CJA-MN9Y> (unofficial English translation).

<sup>4</sup> Id. art. 14.

<sup>5</sup> Id. art. 15.

<sup>6</sup> Id. art. 17.

<sup>7</sup> Id. art. 15(a).

<sup>8</sup> Id. art. 15(b).

<sup>9</sup> Id. arts. 15(c), 16.

The decision to terminate a pregnancy belongs to a pregnant woman from the age of 16. A minor's legal representative, father, or mother must be informed of the decision, except in cases where that could cause serious conflict, domestic violence, or homelessness.<sup>10</sup>

## II. Genetic Consultation

Law 14/2007 on Biomedical Research allows the development of biomedical research within a legal framework that guarantees safe research that respects the rights of the people. It sets standards for genetic analysis, research with human biological samples, and biobanks. It regulates genetic research, requiring the informed consent of volunteers with a guarantee of confidentiality. It adopts measures to address the risks and negative consequences that any research could entail, particularly in experiments in genetics and molecular biology.<sup>11</sup>

## III. Reproduction

Law 14/2006 on Human Assisted Reproduction provides that assisted reproduction techniques, as regulated in the law, will only be applied when there are chances of success and when they do not pose a serious risk to the health of the patient and her offspring. The patient must be at least 18 years old. The law also requires that the woman freely and consciously accept application of the techniques, after being informed of the possible risks to herself or her offspring, by signing an informed consent form. Unless they are separated, the spouse of a married patient must also give consent.<sup>12</sup>

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<sup>10</sup> Id. art. 13.

<sup>11</sup> Ley de Investigación Biomédica, BOE July 4, 2007, <https://perma.cc/9QDK-PX9M>.

<sup>12</sup> Ley 14/2006 de Reproducción Humana Asistida, BOE May 27, 2006, <https://perma.cc/D28S-ZDAK>.

# United Kingdom

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**SUMMARY** This resource guide lists laws, regulations, and significant cases concerning abortion, genetic consultations, and reproduction from the constituent parts of the United Kingdom of Great Britain and Northern Ireland in effect during the period from 1945 to the present.

## I. Abortion

### A. Great Britain

The following laws and regulations governed abortion in Great Britain (England, Wales, and Scotland) as a whole, and the following cases provided for common law developments during the period in question.

#### 1. Statutes

Offences against the Person Act 1861, 24 & 25 Vic., c. 100, <https://perma.cc/2ERC-EX3H>.

Abortion Act 1967, c. 87, <https://perma.cc/PMH5-AWYD>.

Human Fertilisation and Embryology Act 1990, c. 37, <https://perma.cc/F68N-NJNF>.

#### 2. Regulations

Abortion Regulation 1968, SI 1968/390, <https://perma.cc/8XC7-N4DZ>.

Abortion (Amendment) Regulations 1969, SI 1969/636, <https://perma.cc/NFG7-ADBV>.

#### 3. Case Law

*R v Bourne* [1939] 1 KB 687, 3 All ER 615 [1938], <https://perma.cc/5YHW-BEQQ>.

*Royal College of Nursing of the United Kingdom v Department of Health and Social Security* [1981] 1 All ER 545, <https://perma.cc/E4T5-XKJT>.

### B. England and Wales

#### 1. Statute

Infant Life (Preservation) Act 1929, 19 & 20 Geo. 5, c. 34, <https://perma.cc/PKZ6-PTWQ>.

## 2. Regulations

Abortion (Amendment) Regulations 1976, SI 15/1976, <https://perma.cc/D8VQ-MB92>.

Abortion (Amendment) Regulations 1980, SI 1724/1980, <https://perma.cc/THT6-YBLU>.

Abortion Regulations 1991, SI 499/1991, <https://perma.cc/E8EE-BZJS>.

## 3. Case Law

*Crowther et al. v Secretary of State for Health and Social Care* [2021] EWHC 2536 (Admin), <https://perma.cc/4CTJ-GYBS>.

## C. England

### 1. Regulations

Abortion (Amendment) (England) Regulations 2002, SI 887/2002, <https://perma.cc/4V6Z-CQ6L>.

Abortion (Amendment) Regulations 2008, SI 735/2008, <https://perma.cc/W4SY-627U>.

### 2. Case Law

*Smeaton v Secretary of State for Health* [2002] EWHC 610 (Admin), <https://perma.cc/M4G5-MKVM>.

## D. Wales

### Regulations

Abortion (Amendment) (Wales) Regulations 2002, SI 2879/2002, <https://perma.cc/B737-4DR8>.

Abortion (Amendment) (Wales) Regulations 2008, SI 1338/2008, <https://perma.cc/RC2P-FW3F>.

## E. Scotland

### Regulations

Abortion (Scotland) (Amendment) Regulations 1974, SI 1974/1309, <https://perma.cc/DBF9-PB8Y>.

Abortion (Scotland) Amendment Regulations 1976, SI 1976/127, <https://perma.cc/V24V-44RP>.

Abortion (Scotland) Amendment Regulations 1980, SI 1864/1980, <https://perma.cc/KZ26-VX7U>.

Abortion (Scotland) Regulations 1991, SI 460/1991, <https://perma.cc/SHS2-C329>.

Abortion (Scotland) Amendment Regulations 2021, SI 457/2021, <https://perma.cc/48DD-G975>.

## **F. Northern Ireland**

### *1. Statutes*

Criminal Justice Act (Northern Ireland) 1945, c. 15, <https://perma.cc/KXS8-742H>.

Northern Ireland (Executive Formation etc.) Act 2019, c. 22, <https://perma.cc/VRV2-VMKZ>.

### *2. Regulations*

Abortion (Northern Ireland) Regulations 2020, SI 345/2020 (Revoked), <https://perma.cc/ZNJ8-RNSJ>.

Abortion (Northern Ireland) (No. 2) Regulations 2020, SI 503/2020, <https://perma.cc/HN5D-9S33>.

Abortion (Northern Ireland) Regulations 2021, SI 365/2021, <https://perma.cc/T6P7-ZGNW>.

### *3. Case Law*

Family Planning Association of Northern Ireland v Minister for Health Social Services and Public Safety [2015] NICA 37, <https://perma.cc/6DPH-4XT8>.

In the matter of an application by the Northern Ireland Human Rights Commission for Judicial Review (Northern Ireland) Reference by the Court of Appeal in Northern Ireland pursuant to Paragraph 33 of Schedule 10 to the Northern Ireland Act 1998 (Abortion) (Northern Ireland) [2018] UKSC 27, <https://perma.cc/3Z9K-ZXX4>.

## **II. Genetic Consultations/Reproduction**

### **A. Statutes**

Human Fertilisation and Embryology Act 1990, c. 37, <https://perma.cc/V5VT-8KVN>.

Human Fertilisation and Embryology Act 2008, c. 22, <https://perma.cc/B4JA-MQVU>.

Human Fertilisation and Embryology (Deceased Fathers) Act 2003, c. 24, <https://perma.cc/59SQ-S8AM>.

Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018, SI 1413/2018, <https://perma.cc/9KMN-T2US>.

## **B. Regulations**

Human Fertilisation and Embryology (Statutory Storage Period) Regulations 1991, SI 1540/1991, <https://perma.cc/9GP9-9D24>.

Human Fertilisation and Embryology (Special Exemptions) Regulations 1991, SI 1588/1991, <https://perma.cc/7GTG-THA8>.

Human Fertilisation and Embryology Authority (Licence Committees and Appeals) Regulations 1991, SI 1889/1991, <https://perma.cc/SHT7-TDU8>.

Parental Orders (Human Fertilisation and Embryology) Regulations 1994, SI 2767/1994, <https://perma.cc/Z9L7-N986>.

Human Fertilisation and Embryology (Statutory Storage Period for Embryos) Regulations 1996, SI 375/1996, <https://perma.cc/WV99-4ER2>.

Human Fertilisation and Embryology (Research Purposes) Regulations 2001, SI 188/2001, <https://perma.cc/44PA-ZJNV>.

Human Fertilisation and Embryology Authority (Disclosure of Donor Information) Regulations 2004, 2004/1511, <https://perma.cc/253R-YRCT>.

Human Fertilisation and Embryology (Quality and Safety) Regulations 2007, SI 1522/2007, <https://perma.cc/UD6J-RMKV>.

Human Fertilisation and Embryology (Statutory Storage Period for Embryos and Gametes) Regulations 2009, SI 1582/2009, <https://perma.cc/AWS6-EJ98>.

Human Fertilisation and Embryology (Procedure for Revocation, Variation or Refusal of Licences) Regulations 2009, SI 1397/2009, <https://perma.cc/N2GL-W39M>.

Human Fertilisation and Embryology (Statutory Storage Period for Embryos and Gametes) (Amendment) Regulations 2009, 2581/2009, <https://perma.cc/D2UU-99P2>.

Human Fertilisation and Embryology (Appeals) Regulations 2009, SI 1891/2009, <https://perma.cc/Q9ZV-MKKK>.

Human Fertilisation and Embryology (Procedure for Revocation, Variation or Refusal of Licences) (Amendment) Regulations 2009, SI 2088/2009, <https://perma.cc/EV26-VZXG>.

Human Fertilisation and Embryology (Special Exemption) Regulations 2009, SI 1918/2009, <https://perma.cc/V9MF-8GSE>.

Human Fertilisation and Embryology (Disclosure of Information for Research Purposes) Regulations 2010, SI 995/2010, <https://perma.cc/FN5P-6HE8>.

Human Fertilisation and Embryology (Quality and Safety) Regulations 2014, SI 2884/2014, <https://perma.cc/6BP8-XEJH>.

Human Fertilisation and Embryology (Mitochondrial Donation) Regulations 2015, SI 572/2015, <https://perma.cc/469Z-EBE5>.

Human Fertilisation and Embryology (Amendment) Regulations 2018, SI 334/2018, <https://perma.cc/3CER-UFX8>.

Human Fertilisation and Embryology (Parental Orders) Regulations 2018, SI 1412/2018, <https://perma.cc/U5M5-VQ5N>.

Human Fertilisation and Embryology (Amendment) (EU Exit) Regulations 2019, SI 482/2019, <https://perma.cc/8CMV-NSB7>.

Human Fertilisation and Embryology (Statutory Storage Period for Embryos and Gametes) (Coronavirus) Regulations 2020, SI 566/2020, <https://perma.cc/MD4Y-FPLS>.

Human Fertilisation and Embryology (Amendment) (EU Exit) Regulations 2020, SI 1307/2020, <https://perma.cc/JPD7-J4KR>.

### C. Case Law

*Regina v Secretary of State for Health ex parte Quintavalle* [2003] UKHL 13, <https://perma.cc/25DF-48PD>.

*Evans v Amicus Healthcare Ltd et al.* [2004] EWCA Civ 727, <https://perma.cc/5H4B-LE77>.

*Quintavalle v Human Fertilisation and Embryology Authority* [2005] UKHL 28, <https://perma.cc/X4TG-EGV2>.

### III. Additional Resources

Bernard M. Dickens, *Abortion and the Law* (1966), <https://lcn.loc.gov/66075875>.

Abortion Law Reform Association, *A Guide to the Abortion Act 1967* (1968), <https://lcn.loc.gov/70398528>.

Peter Tarnesby, *Abortion Explained* (1969), <https://lcn.loc.gov/78403667>.

Keith Hindell & Madeleine Simms, *Abortion Law Reformed* (1971), <https://lcn.loc.gov/73025716>.

Sally Sheldon, *Beyond Control: Medical Power and Abortion Law* (1997), <https://lcn.loc.gov/96051823>.

John Keown, *Abortion, Doctors, and the Law: Some Aspects of the Legal Regulation of Abortion in England from 1803 to 1982* (1988), <https://lcn.loc.gov/88002604>.

Derek Morgan & Robert G. Lee, *Blackstone's Guide to the Human Fertilisation and Embryology Act, 1990: Abortion and Embryo Research, the New Law* (1991), <https://lcn.loc.gov/91107000>.

*Abortion Law and Politics Today* (Ellie Lee ed., 1998), <https://lcn.loc.gov/98016151>.

*Revisiting the Regulation of Human Fertilisation and Embryology* (Kirsty Horsey ed., 2015), <https://lcn.loc.gov/2014046472>.

Committee on the Working of the Abortion Act, *The Abortion Act Inquiry* (1974), <https://lcn.loc.gov/75595040>.

Emily Jackson, *Regulating Reproduction: Law, Technology, and Autonomy* (2001), <https://lcn.loc.gov/2002279736>.