



EONDFR

EUROPEAN OBSERVATORY FOR NON-DISCRIMINATION
AND FUNDAMENTAL RIGHTS

CONTRIBUTION — FRANCE

Position of the European Observatory for Non-Discrimination and Fundamental Rights on the Bill to Strengthen the Right to Abortion

Position paper

Before extending the legal time limit for abortion, give women the means not to exceed it: sexual and reproductive health, pro-natalist policy, access times and the conscience clause.

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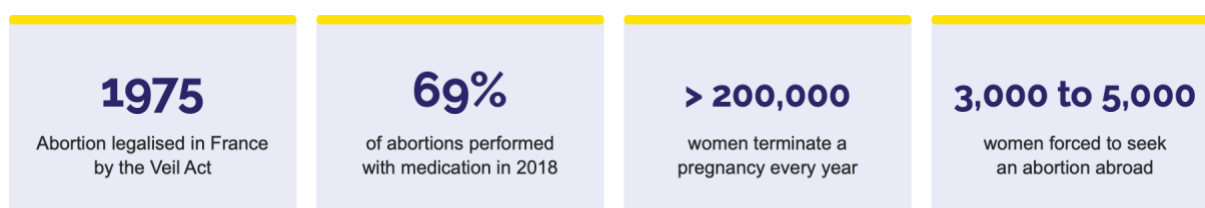
2020

NON-GOVERNMENTAL ORGANISATION

Position of the European Observatory for Non-Discrimination and Fundamental Rights on the Bill to Strengthen the Right to Abortion

In response to the French bill aimed at strengthening the right to voluntary termination of pregnancy, EONDFR considers that, before extending the legal time limit, women should be given the means not to exceed it. It makes four recommendations: a sexual and reproductive health policy, a pro-natalist policy, shorter waiting times for access to abortion, and the preservation of the conscience clause.

KEY FIGURES



Sources: French National Assembly (reports No. 2702 and No. 3343); DREES — data cited in this document.

1

ABORTION IN FRANCE: FRAMEWORK AND METHODS

Voluntary termination of pregnancy (*interruption volontaire de grossesse*, IVG) has been legal in France since 1975. It refers to a termination of pregnancy decided for non-medical reasons, following a personal or family decision.

Where the procedure is carried out for medical reasons — because continuing the pregnancy endangers the mother's health, or because the foetus or embryo suffers from malformations or a serious and incurable disease at the time of diagnosis — it is referred to as a **therapeutic termination of pregnancy (ITG)** or a **medical termination of pregnancy (IMG)**.

Two methods

There are two types of methods for terminating a pregnancy: medication abortion and surgical methods. The former does not require hospitalisation but is reserved for early pregnancies: up to five weeks of pregnancy under French law, i.e. seven weeks of amenorrhoea. Beyond that point, and up to the end of the legal time limit for abortion, a surgical method must be used.

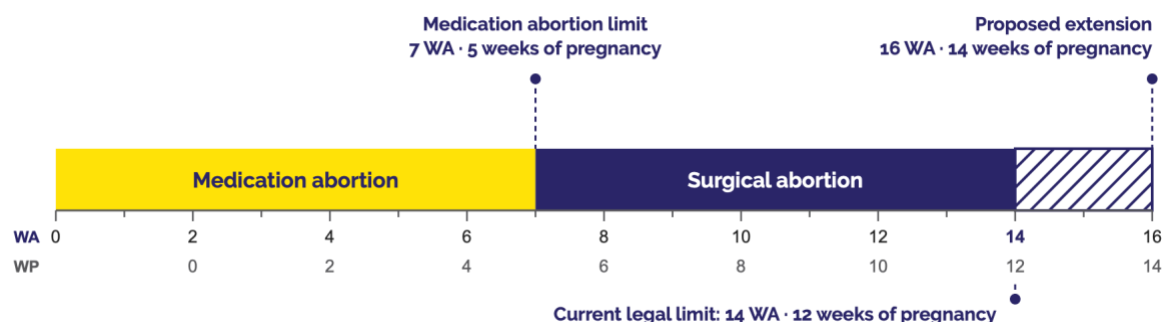


Figure 1 — Methods and time limits for abortion. WA: weeks of amenorrhoea (since the first day of the last menstrual period); WP: weeks of pregnancy.

The legal framework

Article L2212-1 of the French Public Health Code (version in force in 2020 — unofficial translation)

“A pregnant woman who does not wish to continue a pregnancy may ask a doctor or a midwife to terminate it. This termination may only be performed before the end of the twelfth week of pregnancy.

Everyone has the right to be informed about abortion methods and to choose one freely.”

Only the woman concerned may make the request. In France, an abortion may be performed before the end of the twelfth week of pregnancy, i.e. before the end of the fourteenth week after the first day of the last menstrual period.

2 A DEEPLY DIVISIVE SOCIAL DEBATE

Beyond being a physiological act, abortion has become the symbol of a feminist social struggle: the freedom to dispose of one’s own body and to decide on one’s reproduction. Even today, winning the right to abortion remains an important part of the feminist movement. This struggle for access to abortion is extremely divisive, as it sets:

- ◆ on one side, **women**, who claim the right to dispose of their bodies as they see fit;
- ◆ on the other, **pro-life advocates**, who claim the right of embryos to be born and recall the principle of the non-disposability of the human body.

Between the two, **the medical profession** calls for caution and claims the possibility for healthcare staff who do not wish to perform abortions to invoke the specific right of conscience relating to medical termination of pregnancy.

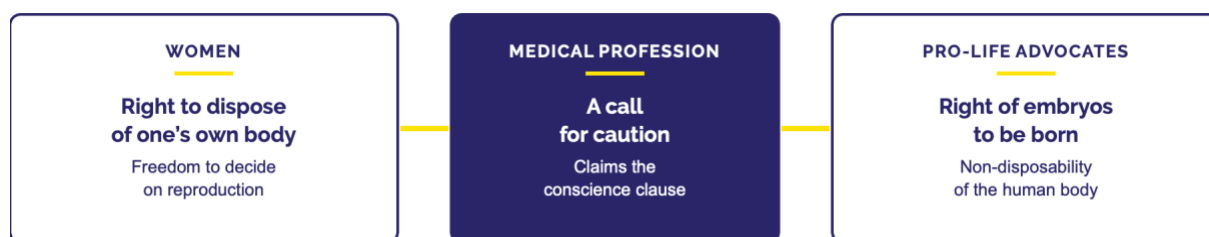


Figure 2 — The three positions in the abortion debate.

The proposed extension of the time limit

The current debate concerns the possible extension of the time limit to 14 weeks of pregnancy, in particular to spare 3,000 to 5,000 women from having to travel abroad for an abortion¹, where in some countries the time limits for abortion are longer than in France.

At 14 weeks of pregnancy, the skull is ossified: the medical procedure is different and carries greater risks for the woman.

The bill also removes the notion of a “conscience clause” specific to abortion, without however eliminating it in practice.

3 TWO FUNDAMENTAL FINDINGS

In France, two fundamental points can be observed:

- 1 Most abortions today are medication abortions** (69% in 2018), i.e. performed within 1 to 7 weeks. During the COVID-19 lockdown, this time limit was extended from 7 to 10 weeks. Instrumental (surgical) abortions — performed in most cases beyond 7 weeks — are steadily declining.
- 2 Public health policies over recent decades have not significantly reduced recourse to abortion.** Since April 2015, the various emergency contraceptive pills have been available in pharmacies without prescription and are provided free of charge to minors. The PASS Contraception scheme in secondary schools has not been rolled out in all regions and, where it has, it has not achieved the expected success — most likely owing to a lack of information among the target public.

¹ “[Mettre fin au scandale des départs à l'étranger](#)” [Ending the scandal of women travelling abroad], information report of the French National Assembly No. 2702 by Ms Danielle Bousquet, 15 November 2000.

4 ANALYSING THE ROOT CAUSES

Consequently, the ethical debate on any extension of the time limit for abortion must first address the underlying issues, in particular by analysing:

- ♦ the factors that lead **more than 200,000 women each year** to terminate their pregnancy;
- ♦ the factors that prevent women from terminating their pregnancy **within the time limits set by law**.

Recourse to abortion remains high and is even increasing. The reasons for this rise are many and relate to health, economic and psychological considerations alike.

The DREES study² shows that the profile of women requesting an abortion has changed in recent years. “There is a clear decline in abortion rates among women aged 15 to 19,” DREES notes in a recent report, while demand is rising among women over 25. The increase in abortions is thus part of a broader context of falling birth rates since 2014, often linked to economic considerations.

This hypothesis is corroborated by DREES which, for the first time in 2019, showed a correlation between couples’ economic difficulties and recourse to abortion: according to this study, it is 40 times higher among the poorest women than among the wealthiest.

5 OUR FOUR RECOMMENDATIONS

Our proposals are built around four fundamental points, all pursuing the same objective: enabling women not to exceed the current legal limit.

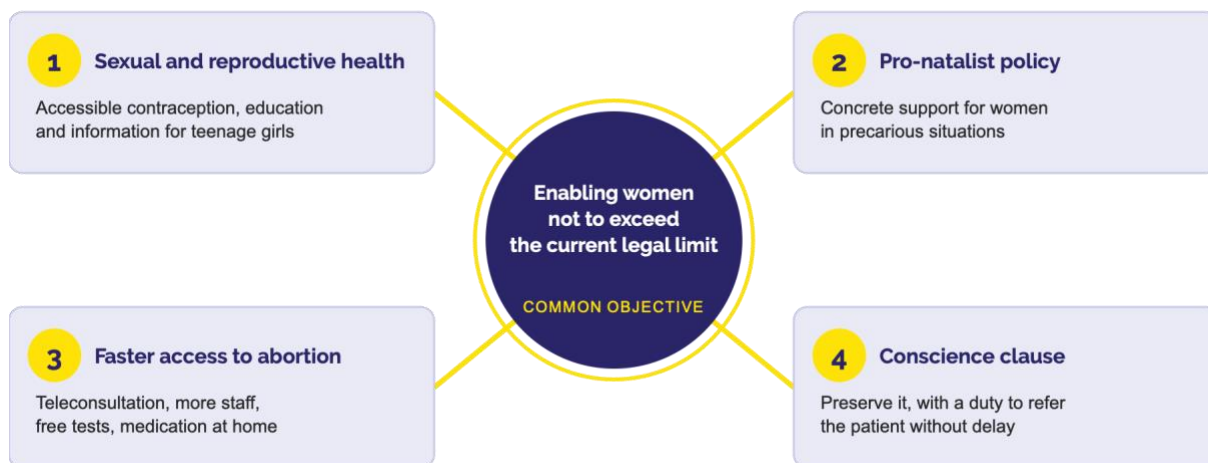


Figure 3 — EONDFR’s four recommendations and their common objective.

² DREES (French Directorate for Research, Studies, Evaluation and Statistics), “[232 200 interruptions volontaires de grossesse en 2019, un taux de recours qui atteint son plus haut niveau depuis 30 ans](#)” [232,200 abortions in 2019: the highest rate in 30 years], press release.

1

Introduce a sexual and reproductive health policy that reduces recourse to abortion

- ♦ **Improve women's access to contraception:** free access, over the counter and without prescription, notably in pharmacies, for underage girls and for women from disadvantaged socio-economic backgrounds. Free contraception for minors is already provided for by law but is not always applied by pharmacists. Moreover, the need to present a prescription to obtain the pill is an obstacle to access. Many countries now allow the pill to be sold over the counter.
- ♦ **Develop sex education in primary and secondary schools.** Education is crucial to understanding what is at stake in the use of contraception and abortion. Some young people receive information on sexual and reproductive health only at school. It is therefore essential to develop sex and relationships education in primary schools, lower and upper secondary schools.

We endorse recommendations 22, 23 and 24 of the [French National Assembly information report No. 3343 "L'accès à l'interruption volontaire de grossesse"](#) [Access to abortion] of 16 September 2020.

- ♦ **Better inform teenage girls** both about the time frame for using emergency contraception and about their right to obtain it free of charge.

2

Introduce a pro-natalist policy

Reassess pro-natalist policy so that women can welcome children without stress: the current socio-economic context is extremely stressful for women in economically precarious situations — economic crisis, housing crisis, health crisis. Nevertheless, it is not right that a child should be regarded as a burden. **Women from disadvantaged socio-economic backgrounds need concrete support** to be able to welcome children if they so wish.

3

Reduce waiting times for access to abortion

The parliamentary information report on access to abortion³, issued by the National Assembly's Delegation for Women's Rights, finds that "medical deserts and the insufficient number of health practitioners performing abortions result in delays in care and waiting times for appointments, particularly in hospitals, which dangerously push women towards the legal time limit". In view of this situation, we recommend:

- ♦ **Developing remote video consultations** in family planning centres, in particular so that people living in medical deserts can access the two consultations required for an abortion. This measure was introduced in Great Britain during the COVID-19 lockdown.

³ French National Assembly, Delegation for Women's Rights, [information report No. 3343 "L'accès à l'interruption volontaire de grossesse"](#) [Access to abortion], 16 September 2020.

- ♦ **Increasing staffing in medical centres that perform abortions.** Some have particularly long waiting times for appointments. Given that three appointments are needed to plan an abortion, with a one-week reflection period between the first and the second, it is important to provide centres with the necessary staff.
- ♦ **Providing free pregnancy tests in pharmacies,** in particular for very young girls (minors) and women from disadvantaged socio-economic backgrounds. Enabling women and girls to discover their pregnancy early will give them the opportunity, if they so wish, to access abortion in satisfactory health, psychological and financial conditions, without being forced to travel abroad because the time limit set by French law has been exceeded.
- ♦ **Expanding home medication abortion** — the time limit was extended from 7 to 10 weeks during the lockdown in France. This possibility should be maintained.

We endorse recommendations 12, 13, 14, 15 and 16 aimed at reducing waiting times for access to abortion.

4

The conscience clause must not be restricted for ideological reasons

The bill presented on Wednesday 16 September 2020 amended the provision guaranteeing healthcare professionals the right to refuse to perform or take part in an abortion. In practice, this possibility will remain: a doctor who does not wish to perform abortions will be required to inform the patient and to provide the details of a colleague — although uncertainty remains for midwives.

For several years, the conscience clause that healthcare professionals may invoke to refuse to perform an abortion has regularly been challenged by feminist associations. According to these associations, the conscience clause — provided for by the Veil Act and relied upon by doctors — hinders access to abortion and is liable to call the right to abortion into question. This controversy is recurrent.

Even though the text allows doctors who do not wish to perform abortions not to do so, we consider it important not to alter the semantic field of the original text. The abortion-specific conscience clause currently available to doctors underlines that this is not a trivial medical act and that it cannot be made compulsory. In the long run, abandoning the “conscience clause” could lead medical students to turn away from this practice and jeopardise women’s access to sexual and reproductive health services, through medical desertification of this field of healthcare.

While preserving the semantic field of the “conscience clause”, proposed recommendation No. 17 could nevertheless be added, which states (unofficial translation):

“A doctor or midwife who refuses to perform an abortion must inform the woman concerned of this refusal without delay and immediately provide her with the

names of practitioners or midwives able to carry out the procedure in accordance with [Article L. 2212-2](#).”

6

CONCLUSION

In reconsidering the extension of the time limit for abortion, it is wise to step back from the view of feminist associations that a high abortion rate and a long legal time limit may be seen as a sign of women’s “strong emancipation”.

The aim is not to “satisfy” the feminist cause, but to act responsibly, respecting women’s physical and mental health on the one hand, and the life they carry on the other.

We also consider it urgent to rethink pro-natalist policy so as to give women from disadvantaged socio-economic backgrounds the means to welcome the life they wish for.

Before extending the time limit for abortion, we believe that the additional measures listed above should be put in place to enable women not to exceed the time limit currently set by law.

Christine MONTY

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Legal and documentary references

French Public Health Code — [Article L2212-1](#) and [Article L2212-2](#) (versions in force in 2020).

French National Assembly — information report No. 2702 by Ms Danielle Bousquet, “[Mettre fin au scandale des départs à l'étranger](#)” [Ending the scandal of women travelling abroad], 15 November 2000.

French National Assembly, Delegation for Women's Rights — [information report No. 3343](#), “[L'accès à l'interruption volontaire de grossesse](#)” [Access to abortion], 16 September 2020.

DREES — “[232 200 interruptions volontaires de grossesse en 2019, un taux de recours qui atteint son plus haut niveau depuis 30 ans](#)” [232,200 abortions in 2019: the highest rate in 30 years], press release, 2020.

Methodological note

EONDFR contribution drafted in the context of the examination of the French bill to strengthen the right to abortion (2020). This is an English translation of the original French text; the data, references and positions are those of the original. Quotations from French sources are unofficial translations. Headings and diagrams have been added for readability.

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