

RESEARCH REPORT

RESTRICTIVE ACCESS TO ABORTIONS IN ROMANIA 2019

TEAM

The phone call survey and research report development represent a joint initiative of FILIA Centre and Euroregional Centre for Public Initiatives-ECPI:

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I. INTRODUCTION

Romania is one of the countries whose legislation enables women's access to pregnancy termination services, both elective and therapeutic. Unfortunately, both the current and previous analyses highlight a gap between the legal provisions (de jure) and the de facto practices. An increase in the number of medics from the public health sector who refuse to perform elective abortions is observed. The boycott of abortions by healthcare providers is no longer motivated solely by conscience or religion, as previously invoked. Financial and bureaucratic reasons are being brought up: lack of adequate designated space in hospitals, lack of malpractice insurance, lack of financial aid (the service is not paid directly to the doctors/ the National Health Insurance Service does not subsidize it).

Other reasons being invoked are: abortion ought not remain a common practice in this day and age, more advanced in terms of mentality (the objection here is clearly a case of the doctor imposing personal convictions on their patients, who are being indirectly accused of backward thinking and relying on practices no longer acceptable. Likewise, the notions that family planning and sexual education are more readily available today have been invoked in order to justify refusal. In the absence of consequences for specialized healthcare professionals who refuse to practice elective pregnancy termination or offer alternatives to patients, this practice is perpetuated and has been perpetuated over the years to the point where there are currently counties over the country where no public hospitals offer elective pregnancy termination services anymore. This particularly affects women in vulnerable areas of rural communities who, for financial reasons, are unable to opt for the private system to have abortions or have access to an efficient, free of charge system that provides them with access to contraception. Therefore, it is precisely the most vulnerable women in Romania whose sexual and reproductive rights, bodily autonomy, and family planning decision rights are being violated.

The 770 Decree, which, starting 1966 banned abortions in Romania, remains a reference point for women's rights obstructions. The time period for which the decree was in effect(1966-1990) was dismal: pregnancy terminations continued to be practiced, only there were no mechanisms to ensure women had secure medical conditions, the assistance of a physician, and some doctors practiced abortions in non-sterile environments, such as the patient's home. Attempts to self-induce abortion, such as through excessive medication and other means led to the death of approximately 10.000 women over the course of the 23 years for which it was outlawed. (Badea, Șerbănescu, Stephensen and Wagner 1992)

The first two articles of the 700/1966 decree stipulated:

Art. 1

Interruption of the course of pregnancy is prohibited.

Art. 2

Exceptionally, the interruption of pregnancy will be authorized according to the provisions of art. 5, in cases where:

- a) the pregnancy puts the woman's life at a risk which cannot be removed through other means;
- b) one of the parents suffers from a serious illness, hereditarily transmissible, or which causes grave congenital malformations;
- c) the pregnant woman has severe physical, mental or sensory disabilities;
- d) the woman is aged over 45;
- e) the woman has given birth to four children currently has them under care;
- f) the pregnancy is a result of rape or incest.

For exceptional cases where pregnancy could be terminated, it required approval by "a district or city medical board set up for this purpose by the decision of the executive council of the regional or town County Seat for Bucharest and Constanta. " Even medical emergencies had to be brought to the attention of a prosecutor no later than 24 hours after the termination of pregnancy had been performed, for the prosecutor to determine whether it was really necessary; if it was found that the procedure could have been avoided, both the doctor and the patient were subject to the Penal Code, deemed to have committed a crime.

When access to safe abortions is restricted, be it de facto or de jure, the number of abortions happening outside the system medical, endangering to women's lives, increases. Worldwide, between 2010 and 2014, 25.1 million women resorted to self-inflicted abortions annually (Ganatra B, Gerdts C, Rossier C, et al., 2017). With Romania being the European country with the highest number of teenage mothers, restricting access to pregnancy termination affect minors with serious consequences for them - in 2017 alone there were 5,267 abortions recorded among young girls between 15 and 19 years of age and 289 among girls less than 15 years of age. (INSSE 2018). The number of annual births for this age group (15-19 years) is 12,641 and 383 births were registered in 2017 alone for girls younger than 15 years. (Eurostat 2017)

The problem is mainly due to the fact that in Romania, since 2011, the development of a strategy in the field of reproductive health and rights was interrupted, there is no free contraception and family planning program, the only free contraceptive service at the moment being guidance for the best method of contraception (Romanian Government, 2019). With except for injections and subdermal implants, all other contraceptive methods are available at a fee. However, female condoms, diaphragms, vaginal rings and contraceptive patches, due to reduced demand, are hard to come by. There are no clinical guides aimed at the medical staff on how to provide contraceptives or offer individualized counsel. In the past there have been measures on free access to contraceptive methods, but they were inconsistent (IPPF and SECS 2016). Lack of access to contraception along with the lack of sexual education in schools is increasing the number of women who are in a position to request interruptions; the state should also focus on the prevention component of unwanted pregnancies, especially for women who are vulnerable or who are discriminated against when accessing elective abortion services.

It is worth mentioning that the elective pregnancy termination procedure, which can be performed up to 14 weeks according to the law, is a service that is not supported by health insurance, being paid for by the patient. Terminating the pregnancy for medical reasons, or therapeutic abortion, as mentioned in the law, is a service free of charge, subsidized by the state. (Romanian Government 2018)

II. METHODOLOGY

The documentation was conducted on the basis of a telephone call survey. The calls were made around the Easter holidays, except in the county of Vaslui, where the research was carried out later. Calls were made in all counties of Romania and in Bucharest. Overall, the research team contacted public hospitals in 165 cities plus Bucharest municipality, as opposed to the 2011 survey (ECPI, 2011) when 67 medical units were contacted and 2013 (ECPI, 2013) when there were 85 medical units contacted. List of cities included in the 2019 monitoring:

Bacău, Moinești, Onești, Comănești, Buhuși, Botoșani, Dorohoi, Darabani, Săveni, Iași, Pașcani, Huși, Hîrlău, Piatra-Neamț, Roman, Târgu Neamț, Suceava, Câmpulung Moldovenesc, Fălticeni, Rădăuți, Vatra Dornei, Gura Humorului, Siret, Vaslui, Huși, Bârlad, Pitești, Câmpulung Muscel, Curtea de Argeș, Costești, Mioveni, Călărași, Oltenița, Budești, Lehliu-Gară, Târgoviște, Moreni, Pucioasa, Târgoviște, Voinești, Găești, Titu, Giurgiu, Bolintin Vale, Novaci, Slobozia, Urziceni, Fetești, Țândărei, Ploiești, Câmpina, Vălenii de Munte, Băicoi, Mizil, Sinaia, Alexandria, Roșiorii de Vede, Turnu Măgurele, Zimnicea, Videle, Brăila, Făurei, Buzău, Râmnicu Sărat, Nehoiu, Constanța, Mangalia, Medgidia, Cernavodă, Galați, Tecuci, Târgu Bujor, Tulcea, Măcin, Focșani, Adjud, Panciu, Vidra, Craiova, Băilești, Calafat, Dăbuleni, Segarcea, Târgu Jiu, Motru, Târgu Cărbunești, Rovinari, Novaci, Bumbesti Jiu, Turceni, Drobeta-Turnu Severin, Orșova, Baia de Aramă, Strehaia, Vânju Mare, Slatina, Caracal, Balș, Corabia, Râmnicu Vâlcea, Drăgășani, Bălcești, Brezoi, Horezu, Lipova, Ineu, Arad, Reșița, Caransebeș, Oravița, Oțelu-Roșu, Moldova Nouă, Petroșani, Deva, Hunedoara, Brad, Lupeni, Orăștie, Hațeg, Vulcan, Timișoara, Lugoj, Făget, Sânnicolau Mare, Deta, Oradea, Ștei, Aleșd, Beiuș, Marghita, Valea lui Mihai, Bistrița, Cluj-Napoca, Gherla, Turda, Câmpia Turzii, Dej, Huedin, Cluj-Napoca, Târgu Lăpuș, Borșa, Baia Mare, Sighetu Marmăției, Baia Sprie, Satu-Mare, Negrești-Oaș, Tâșnad, Carei, Șimleu Silvaniei, Jibou, Zalău, Alba Iulia, Aiud, Blaj, Sebeș, Cugir, Câmpeni, Abrud, Brașov, Rupea, Făgăraș, Zărnești, Sfântu Gheorghe, Târgu Secuiesc, Baraolt, Miercurea Ciuc, Gheorgheni, Odorheiu Secuiesc, Toplița, Târgu Mureș, Târnăveni, Reghin, Sângeorgiu de Pădure, Luduș, Sighișoara, Sibiu, Agnița, Mediaș, Buftea, București.

The documentation was carried out prior to the Easter period, during the period: 01.04.2019-23.04.2019. The questions asked were:

Is it possible to come in for an abortion this week?

If the answer was YES, then it was asked: How about next week? What is required for the procedure to be performed?

If the answer was NO, then it was asked: Why are not they done? What is the protocol?

When do you start performing them again?

Overall we called 217 hospitals, 59 of which did not answer or did not have a specialized ward. This leaves 158 hospitals with which we discussed and which have the infrastructure required to perform elective abortions.

III. THE RESULTS OF THE RESEARCH

1. THE 2019 RESEARCH, AROUND EASTER

Out of the 158 public hospitals which were contacted and have the infrastructure required to perform:

The procedure is done at any time in 40 hospitals in 24 counties, none in Bucharest (25.3% of the responding hospitals).

The elective procedure is not done during religious holidays in 36 hospitals in 19 counties (22.7% of responding hospitals).

The procedure is not done at all in 51 hospitals in 29 counties (32.2% of responding hospitals).

I could not obtain more information by phone in 31 hospitals (19.6% of the hospitals that responded).

It should be cleared that the elective pregnancy termination procedure does not require a referral from the GP, only proof of pregnancy. The monitoring revealed that there are hospitals in Romania where both referral from the GP and payment of a tax are required, despite it being for an elective abortion. The requested fee varies between 100 and 650 lei depending on the hospital and the need for

anesthesia. The maximum amount of 650 lei was requested by the Alba County Emergency Hospital. In addition, the health card and ID card are necessary (health card was even required in the case of elective abortion, which is not covered by the state) and proof of pregnancy. Besides, Dorohoi Municipal Hospital informed us that it is necessary to bring a set of gloves for the medical staff, and the Hospital King Carol I Costești and two other hospitals that it is necessary to bring a cotton wool pack.

A particular case consists of doctors from public hospitals who also run private practices and refuse to perform abortions in the hospital, only to send their patients in the private practice, like how we found in Călărași and other counties.

2. COMPARISON BETWEEN THE RESULTS OF THE DOCUMENTATION IN 2019 AND THE ONE IN 2013*

* We mention that the comparative analysis is not entirely accurate, but only indicative, given that the number of hospitals that have been monitored differs (59 medical units answering the phone call in 2013, as opposed to 158 in 2019). . Therefore, the comparison is of a percentage nature; yet it cannot clearly observe the evolution of the problem. It is clear though that the situation has been worsening since 2013.

- **The number of medical units which did not answer**

In 2013 the analysis revealed that almost a third of the hospitals contacted did not answer the phone or had been previously dismantled; as for the 2019 research a similar number of medical units did not respond or were dismantled: 72.8% of the hospitals contacted responded and had the necessary medical infrastructure and specialized staff. Of these, 19.6% could not provide us information over the phone.

- **The number of medical units which do not provide elective abortion services**

Following the 2013 analysis a doubling of the number of hospitals which did not perform elective abortion services was recorded, compared to 2011, (reported at

total number of hospitals in which monitoring was performed): 13 medical units out of a total of 59 (22%). The 2019 analysis reveals a total of 51 medical units from a total of 158 contacted (32.2%).

- **The number of medical units which do not provide elective abortions for the duration of religious holidays**

The 2013 report reveals 30 medical units out of 56 (53.6%) in which abortions are not performed during religious holidays - two of them do not practice abortion during any religious holiday. In 2019 research has shown that 36 hospitals out of 158 (22.7%) do not practice pregnancy terminations during religious holidays, however, correlated with the number of medical units which do not perform elective abortion all year round(51), we can see a worrying phenomenon in limiting access to elective abortion.

- **The number of medical units which provide elective abortions anytime**

In 40 public medical units abortions are performed at any time(25.3%), compared to results from 2013-3 public medical units out of 56, or 5.3%.

IV. THE RESULTS OF THE LEGISLATIVE ANALYSIS

The New Penal Code, Law no. 286/2009 (2009) clarifies the legal framework of abortion through paragraph 7 of art.201 "A pregnant woman that ends her pregnancy is not punishable." ending the debate over this aspect. The statement is all the more significant in the face of noticeable backtracking towards outlawing in other countries where abortion is presently legal. In the US, states like Georgia, Kentucky, Mississippi, Ohio and Louisiana have developed bills which are currently up for Supreme Court debate, proposing total or nearly total abortion bans and even introducing severe sentences for the mother and the physician performing the abortion. Conversely, current legislation in Romania maintains the conditions under which abortion is permitted: elective procedure before 14 weeks (art. 201/1/C) and therapeutic procedure until 24 weeks (art. 201/6). Minors under 16 years old must be accompanied by one of their parents

or legal guardians to express consent for the abortion. In practice, patients under the age of 18 require parental consent in all cases-there are no explicit norms to clear up art. 650 of Law 95/2006.

CHAPTER VI VIOLENCE AGAINST FETUS

Art. 199 Abortion

(1) Interruption of the course of pregnancy committed under any of the following circumstances:

- a) outside designated medical institutions or authorized medical practices by a person who does not have the status of obstetrical specialist in gynaecology and a right of free medical practice in this specialty
- b) if the development of pregnancy exceeds fourteen weeks, it is punishable with 6 months to 3 years of prison or a fine and a ban on the exercise of certain rights. (this only applies to elective abortion)

(2) Abortion committed under any circumstances, without the consent of the pregnant woman, is punishable with 2 to 7 years of prison and a ban on the exercise of certain rights

(3) If by the acts referred to in paragraphs (1) and (2) bodily harm is caused to the woman it is punishable with 3 to 10 years and a ban on the exercise of certain rights, and if the act resulted in the pregnant woman's death, the penalty is imprisonment from 6 to 12 years and a ban on the exercise of certain rights

(4) When the acts are committed by a physician, besides the prison sentence, there is also a ban on practicing medicine

(5) Attempting the criminal offenses referred to in paragraphs (1) and (2) is punishable in itself

(6) The therapeutic abortion performed by an obstetrical gynaecologist does not constitute a criminal offense

(7) A pregnant woman that ends her pregnancy is not punishable

The New Code of Medical Deontology of the Romanian College of Physicians (2016) also does not specify the doctor's obligations if they refuse treatment of a

patient for religious or conscience reasons, as this report and the previous ones concluded to be happening in practice. Thus, the situation in which doctors refuse to provide this service is perpetuated, especially in the absence of sanctions. However, there is a significant change as far as the possibility of providing a medical service, for reasons to do with moral values, goes. The Old Code of Medical Deontology stipulated the possibility for doctors in a deontological context to refuse to provide a medical service, or assist medically in any way if it affects their *professional independence, image, moral values, or is inconsistent with the basic principles of exercising the profession of physician, with the purpose and social role of the medical profession.*

The refusal to practice therapeutic abortion falls under Article 22 of the New Code of Medical Deontology of the Romanian College of Physicians (we requested additional information on this topic, the CMR response being: therapeutic abortion, as the name implies, is not elective and cannot be denied on the basis of conscience! Denial, depending on circumstances, may be judged and sanctioned by the RCP, with the legal ones):

The following acts in particular are contrary to the fundamental principles of practicing the profession of physician:

- b) refusal to provide medical services apart from situations stipulated by the law or professional norms
- c) abandoning a patient requiring emergency services or that is in danger without the assurance that they are taken over by a different medical unit or physician or benefit of adequate conditions for their current situation and health status

Law 95/2006 on health reform provides for additions to responsibility and medical obligations. Therefore, it is stipulated that the relationship with the patient may be interrupted in the following situations, after the doctor took over the case:

- a) once the condition is resolved
- b) by the patient;
- c) by the physician in the following situations:

- (i) when the patient is sent to another physician, providing all medical data obtained, which justifies the assistance of another physician with superior expertise;
- (ii) the patient has a hostile and / or irreverent attitude towards the physician.

In 2018 the United Nations recognized that denying women's right to safe pregnancy termination constitutes an act of violence against women (CEDAW and CRPD, 2018).

V. RECOMMENDATIONS

- **TOWARDS THE MINISTRY OF HEALTH**

To establish a protocol for hospital managers that would include necessary steps to ensure unencumbered access to elective pregnancy termination throughout the year, in all counties of the state.

To propose modifications to the laws regulating abortion, so that they clearly outline sanctions for the medical body that refuse to perform therapeutic abortions and to clearly stipulate the corresponding procedures.

- **TOWARDS CENTRAL AND LOCAL AUTHORITIES THAT ARE RESPONSIBLE FOR PUBLIC HOSPITALS**

To monitor the conditions under which access to elective abortions is ensured throughout the year and whether the necessary medical staff is ensured in accordance to the population number of each region, taking into account existing statistics (number of abortions annually, number of abortions by minors, number of elective abortions etc.)

To take action at the administrative level to ensure unrestricted access for women to elective pregnancy termination.

- TOWARDS THE ROMANIAN COLLEGE OF PHYSICIANS

To harmonize deontological norms, with emphasis on the doctor-patient relationship, on the aspect of the patient interrupting the relationship, and components of consent and confidentiality;

To ensure that the initial training of physicians includes the practical elements to provide abortion services safely and in compliance with the latest WHO approved standards in the field.

- TOWARDS THE HOSPITAL MANAGERS

To monitor the degree of refusal to perform or assist in elective pregnancy terminations and implement a concrete action plan to ensure the continuity of the medical service under accessible and acceptable conditions for all women.

To inform patients about terms and conditions for accessing abortion services, including by publishing the information on the institution's web page.

Temporarily, in case there is no medical personnel to perform or assist with elective abortions, to contract medical professionals willing to carry out this intervention without any reservations of any nature.

REFERENCES

1. Ganatra B, Gerdt C, Rossier C, et al. Global, regional, and subregional classification of abortions by safety, 2010–14: estimates from a Bayesian hierarchical model. *The Lancet* 2017;390:2372–81
2. INSSE, 2018
3. The New Criminal Procedure Code, Ch. VI, Article 199
4. Code of Medical Deontology, Cap. V, Article 38
5. Law no. 95/2006, Chapter IV: Obligation to provide health care
6. Eurostat: Live births by mother's year of birth (age reached) and birth order, 2017
7. Stephenson, Patricia, Marsden Wagner, Mihaela Badea și Florina Șerbănescu. 1992. "Commentary: The Public Health Consequences of Restricted Induced Abortion- Lessons from Romania." *American Journal of Public Health* 82 (10): 1328-1331. Academic Search Premier, EBSCOhost
8. Government Decision no. 140/2018 for the approval of service packages and the Framework Contract governing the conditions for the provision of medical care, medicines and medical devices within the health insurance system for the years 2018-2019
9. IPPF and SECS, Barometer: Women's Access to Modern Contraception Options in 16 EU Countries - Key Policy Findings and Recommendations: Romania, 2016
10. ECPI, Refusal on the grounds of religion or conscience to perform abortion upon request in Romania, 2011
11. ECPI, Refusal on the grounds of religion or conscience to perform abortion upon request in Romania, 2014
12. Romanian College of Physicians, Medical Code of Ethics of March 30, 2012, art. 33
13. The UN Committee on the Elimination of Discrimination against Women and the UN Committee on the Rights of Persons with Disabilities, 2018.
14. Kligman, G, Duplicity Policy, 2000

ANEXA 1: LISTA UNITĂȚILOR MEDICALE

Medical units which are not doing at all elective abortions (51):

Spitalul Municipal Onești, Spitalul Orășenesc Ioan Lascăr Comănești, Spitalul Orășenesc Buhuși, Spitalul Municipal Pașcani, Spitalul Județean de Urgență Piatra-Neamț, Spitalul Municipal de Urgență Roman, Spitalul Municipal Fălticeni, Spitalul Municipal Vatra Dornei, Spitalul Orășenesc Gura Humorului, Spitalul de Urgență Vaslui, Spitalul Municipal Dimitrie Castroian Huși, Spitalul Județean de Urgență Călărași, Spitalul Municipal Oltenița, Spitalul Orășenesc Lehliu-Gară, Spitalul Orășenesc Pucioasa, Spitalul Orășenesc Novaci, Spitalul Municipal Anghel Saligny Fetești, Spitalul Municipal Ploiești, Spitalul Municipal Câmpina, Spitalul Orășenesc Vălenii de Munte, Spitalul Orășenesc Băicoi, Spitalul Orășenesc Mizil, Spitalul Județean de Urgență Alexandria, Spitalul Municipal Turnu Măgurele, Spitalul Orășenesc Făurei, Spitalul Orășenesc Nehoiu, Spitalul Municipal Medgidia, Spitalul Județean de Urgență Focșani, Spitalul Orășenesc Panciu, Spitalul Comunal Vidra, Spitalul Clinic Județean de Urgență Craiova, Spitalul Orășenesc Rovinari, Spitalul Județean de Urgență Slatina, Spitalul Municipal Caracal, Spitalul Orășenesc Corabia, Spitalul Orășenesc Ineu, Spitalul Județean de Urgență Deva, Spitalul Municipal Hunedoara, Spitalul Municipal Orăștie, Spitalul Clinic Municipal de Urgență Timișoara, Spitalul Orășenesc Deta, Spitalul Clinic Municipal Dr. Gavril Curteanu, Spitalul Orășenesc Aleșd, Spitalul Clinic Județean de Urgență Cluj-Napoca, Policlinica Salvosan Ciobanca Cluj-Napoca, Spitalul Orășenesc Baia Sprie, Spitalul Județean de Urgență Zalău, Spitalul Orășenesc Câmpeni, Spitalul Orășenesc Rupea, Spitalul Universitar de Urgență București, Spitalul Municipal Câmpulung Moldovenesc.

Medical units which are not doing elective abortions during religious holidays (36):

Spitalul Județean de Urgență Bacău, Spitalul Municipal de Urgență Moinești,

Spitalul Județean de Urgență Botoșani, Spitalul Municipal Câmpulung, Spitalul Județean Târgoviște, Spitalul Municipal Moreni, Spitalul Județean Giurgiu, Spitalul Orășenesc Bolintin Vale, Spitalul Județean De Urgență Slobozia, Spitalul de Obstetrică-Ginecologie Ploiești, Spitalul Municipal Roșiorii de Vede, Spitalul Clinic Municipal Filantropia, Spitalul Municipal Profesor Doctor Irinel Popescu, Spitalul Orășenesc Așezămintele Brâncovenești Dăbuleni, Spitalul Județean de Urgență Târgu Jiu, Spitalul Orășenesc Brezoi (doar dacă sarcina este până în opt săptămâni), Spitalul Orășenesc Horezu, Spitalul de Urgență Petroșani, Spitalul Municipal Brad, Spitalul Municipal Vulcan, Spitalul Clinic Județean de Urgență Pius Brînzeu Timișoara, Spitalul Orășenesc Dr. Karl Diel Jimbolia, Spitalul Orășenesc Sânnicolau Mare, Spitalul Municipal Episcop N. Popovici Beiuș, Spitalul Orășenesc Beclean, Spitalul Municipal Dej, Spitalul Municipal Sighetu Marmăției, Spitalul Municipal Carei, Spitalul Județean de Urgență Alba, Spitalul Orășenesc Gheorgheni, Spitalul Municipal Toplița, Spitalul Clinic Județean de Urgență Sibiu, Spitalul Clinic de Obstetrică și Ginecologie Filantropia, Spitalul Sf. Pantelimon București, Spitalul Clinic Doctor I. Cantacuzino, Spitalul Clinic Malaxa.