

## **Abortion in Ireland**

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### **Media Briefing Document**

#### **The Law**

The 1861 Offences Against the Person Act is the basis for the criminalisation of abortion in Ireland. Under the Act, the punishment for women who “unlawfully procure a miscarriage” is life imprisonment.

Abortion is legal in Ireland when there is a real and substantial risk to the life of the pregnant woman this includes the risk of suicide. The current legal provisions do not allow for lawful termination of pregnancy when the woman’s health is at risk, where the pregnancy is a result of rape or/and incest, where the foetus will not survive outside the womb or where the pregnant woman decides that continuation of the pregnancy is not in her or her family’s best interests.

It is not against the law for women to travel abroad to access abortion services or access information on safe and legal abortion services in other countries from an Irish service provider.

#### **The Reality**

Although abortion is a criminal offence in Ireland, this does not deter Irish women from accessing abortion. Between January 1980 and December 2008, at least 137,618 women travelled from the Republic of Ireland for abortion services in Britain. An increasing number of women are accessing safe and legal abortion services in EU countries other than the UK. According to the [Crisis Pregnancy Agency](#), 331 women from the Republic of Ireland travelled to the Netherlands for safe and legal abortion services in 2008 and 451 women in 2007.

#### **Public Opinion**

Opinion polls and research consistently show increased support for access to abortion. A 2004 Crisis Pregnancy Agency study found that 90% of 18-45 year olds support abortion in certain circumstances, with 51% stating that women should always have to right to choose an abortion. In 2007, an Irish Times Behaviour and Attitudes Poll found that 54% of women believe the Government should act to permit abortion.

#### **IFPA Position**

The IFPA believes that abortion is an intimate aspect of private life, intricately linked with human rights values and principles that protect a woman's sexual and reproductive rights. These rights include the right to health, life, privacy, non-discrimination and to be free from cruel and degrading treatment. These values are unacceptably infringed upon by the criminalisation and inaccessibility of safe and legal abortion in Ireland.

Our counsellors, doctors, trainers and staff have extensive knowledge of the extreme physical, financial and emotional hardship for women forced to travel abroad for health care they believe should be available to them at home. Such hardship is often compounded by poverty, literacy and language difficulties, travel restrictions for migrant and asylum seeking women, sexual violence, stigma, stress, unsupportive family and friends, and/or diagnosis of severe or fatal foetal abnormality.

Complex court cases where women and girls are cruelly compelled to disclose the most intimate aspects of their life in the public arena in order to receive appropriate health care, albeit in another country, are deplorable avenues for the delivery of medical services. Moreover, the lack of legal clarity means that doctors will not perform abortions even when they may be legally permissible for fear of criminal prosecution.

#### **European Court of Human Rights (ECtHR)**

The European Court of Human Rights (ECtHR) is an international court set up in 1959. It rules on individual or State applications alleging violations of the civil and political rights set out in the European Convention on Human Rights. The ECtHR is an institution of the Council

of Europe which consists of 47 Member States. The ECtHR is separate from the institutions of the European Union.

### **ABC v Ireland**

Three women, supported by the IFPA, are challenging Ireland's ban on abortion in the ECtHR on the grounds that the law jeopardised their health and their wellbeing in violation of their rights under the European Convention on Human Rights.

The women lodged a complaint to the ECtHR in August 2005 and an oral hearing of the case will be heard in December 9, 2009 in front of the Grand Chamber of 17 judges in Strasbourg. The women, known as A, B & C contend that Ireland has breached their human rights under Articles 2 (Right to Life), 3 (Prohibition of Torture), 8 (Right to Respect for Family and Private Life) and 14 (Prohibition of Discrimination) of the European Convention on Human Rights.

### **Facts of the Case**

Applicant A was living in poverty when she became pregnant unintentionally. At that time, Applicant A had children in the care of the State as a result of personal problems. The year preceding her pregnancy, Applicant A was improving her personal circumstances and had been in constant contact with social workers with a view of regaining custody of her children. She considered a further child at this critical moment in her life would jeopardise the successful unification of her existing family and decided to travel to England for an abortion.

Applicant B became pregnant unintentionally. Upon consultation with a doctor, she was informed that she could be at risk of an ectopic pregnancy, a life threatening condition in which the foetus develops outside the uterus. Applicant B was not prepared to become pregnant at this time or to run the risks associated with an ectopic pregnancy. She travelled to England for an abortion.

Applicant C had undergone chemotherapy for three years to treat cancer. When the cancer went into remission, Applicant C became pregnant unintentionally. Unaware of her pregnancy at this time, Applicant C underwent a series of tests, contraindicated during pregnancy, to determine her current state of health. Upon learning of her pregnancy, Applicant C was unable to find a doctor willing to make a determination as to whether her life would be at risk if she continued the pregnancy to term or how the foetus might have been affected by the tests she had undergone. Given the uncertainty of the risks involved, Applicant C travelled to England for an abortion.

### **The Role of the IFPA in ABC v Ireland**

The IFPA's primary role in ABC v Ireland is to provide professional, specialist counselling and emotional support to the Applicants in the case. The IFPA is not a formal applicant in ABC v Ireland but is however assisting the Applicants' legal team with respect to administration and coordination in the lead up to the case being heard in the ECtHR. The IFPA is also acting as the communications focal point for the Applicants for all media inquiries.